

tions, background and criminal history checks, or family violence reports, as applicable, were conducted and are sufficient to ensure the safety of children receiving care at the agency foster home.

(c) A child-placing agency may not verify an agency foster group home after August 31, 2017.

(d) An agency foster group home that was verified by a child-placing agency before September 1, 2017, may continue to operate under the child-placing agency that verified the home and under the law as it existed immediately before the effective date of this Act, and that law is continued in effect for that purpose, until each agency foster group home has been converted to a verified foster home or has been closed.

SECTION 79. Except as otherwise provided by this Act, this Act takes effect September 1, 2017.

Passed by the House on May 9, 2017: Yeas 145, Nays 1, 1 present, not voting; the House concurred in Senate amendments to H.B. No. 7 on May 26, 2017: Yeas 140, Nays 0, 2 present, not voting; passed by the Senate, with amendments, on May 24, 2017: Yeas 31, Nays 0.

Approved May 31, 2017.

Effective September 1, 2017, except as provided by this Act.

RETIREMENT SYSTEMS FOR AND THE PROVISION OF OTHER BENEFITS TO POLICE AND FIRE FIGHTERS IN CERTAIN MUNICIPALITIES

CHAPTER 318

H.B. No. 3158

AN ACT

relating to the retirement systems for and the provision of other benefits to police and fire fighters in certain municipalities.

Be it enacted by the Legislature of the State of Texas:

ARTICLE 1. CONTINGENT PROVISIONS: EFFECTIVE SEPTEMBER 1, 2017

SECTION 1.01. Section 1.01, Article 6243a–1, Revised Statutes, is amended to read as follows:

Sec. 1.01. AMENDMENT, RESTATEMENT, AND CONSOLIDATION. (a) The purpose of this article is to restate and amend the provisions of a former law governing the pension funds for police officers and fire fighters in certain municipalities (Chapter 4, Acts of the 43rd Legislature, 1st Called Session, 1933, also known as Article 6243a) *having previously been amended and restated* to permit the consolidation of the terms of certain pension plans created under Sections 1, 11A, and 11B of that Act for the purpose of simply and accurately reflecting the joint administration of the plans.

(b) ~~[The provisions of this article are entirely consistent with all terms and conditions relating to benefits and benefit entitlement previously contained in the plans.]~~ This article does not ~~[intend to]~~ take away or reduce any *accrued* benefit contained in the plans created under former Article 6243a *or under this article as it existed on or before August 31, 2017.*

SECTION 1.02. Section 2.01, Article 6243a–1, Revised Statutes, is amended to read as follows:

Sec. 2.01. DEFINITIONS. In this article:

(1) “415 compensation” means a member’s wages, salary, and other amounts received

for personal services rendered in the course of employment with the city during a limitation year and permitted to be treated as compensation for purposes of Section 415(c) of the code, including differential wage payments described in Section 414(u)(12) of the code. The term does not include amounts picked up under Section 4.03(i) of this article.

(2) "Active service" means any period that a member receives compensation as a police officer or fire fighter from either department for services rendered.

(3) [(2)] "Actuarial equivalent" means a form of benefit differing in time, duration, or manner of payment from a standard benefit payable under this article but having the same value when computed using the assumptions set forth in this article.

[(3) "Administrator" means the person designated by the board to supervise the affairs of the pension system.]

(4) "Alternate payee" has the meaning given the term by Section 414(p) [414] of the code or any successor provision.

(5) "Alternative investment" means an investment in an asset other than a traditional asset. The term includes an investment in private equity funds, private real estate transactions, hedge funds, and infrastructure.

(6) [(5)] "Annual additions" means the sum of the following amounts credited to a member's account under any defined contribution plan maintained by the city for the limitation year:

(A) city contributions;

(B) member contributions, other than rollover contributions from a plan maintained by any employer other than the city;

(C) forfeitures; and

(D) amounts allocated after March 31, 1984, to an individual medical benefit account, as defined in Section 415(l)(2) [415(1)(2)] of the code, that is part of a pension or annuity plan maintained by the city.

[The term does not include amounts described in Paragraph (D) of this subdivision for the purpose of computing the percentage limitation described in Section 415(c)(1)(B) of the code.] For any limitation year beginning before January 1, 1987, only that portion of member contributions equal to the lesser of member contributions in excess of six percent of 415 compensation or one-half of member contributions to the combined pension plan or any qualified defined contribution plan maintained by the city is treated as annual additions.

(7) [(6)] "Annual benefit" means the aggregate benefit attributable to city and member contributions payable annually under the combined pension plan, or any plan maintained by the city, exclusive of any benefit not required to be considered for purposes of applying the limitations of Section 415 of the code to the combined pension plan, payable in the form of a straight life annuity beginning at age 62 with no ancillary benefits. Solely for purposes of computing the limitations under the combined pension plan, benefits actually payable to a pensioner are adjusted to the actuarial equivalent of a straight life annuity pursuant to Section 415(b) [8-01] of the code [this article] even though no member may actually receive a benefit in the form of a straight life annuity.

(8) [(7)] "Article 6243a" means Chapter 4, Acts of the 43rd Legislature, 1st Called Session, 1933 (former Article 6243a, Vernon's Texas Civil Statutes), pertaining to a pension system for police officers, fire fighters, and fire alarm operators in certain cities.

(9) [(8)] "Assignment pay" means monthly pay, in addition to salary, granted to a Group B member and authorized by the city council for the performance of certain enumerated duty assignments.

(10) [(9)] "Base pay" means the maximum monthly civil service pay from time to time established by the city for a person who holds the rank of "police officer" in the city's police department or the rank of "fire and rescue officer" in the city's fire department [a police officer or fire fighter], exclusive of any other form of compensation. The term does not include compensation paid by the city to a person for prior periods of service or compensa-

tion that otherwise constitutes back pay unless the compensation is eligible back pay. The board may adopt rules and procedures necessary to include eligible back pay as base pay for purposes of this definition, including rules regarding how increases in benefits will be determined and administered.

(11) [(10)] “Base pension” means the amount of retirement, death, or disability benefits as determined ~~[computed under this article]~~ at the earliest of the time a Group B member and, solely for the purposes of Section 6.12 of this article, a Group A member:

(A) begins participation in DROP;

(B) leaves or left active service;

(C) ~~[leaves active service,]~~ dies; ~~[;]~~ or

(D) becomes entitled to a disability pension under the combined pension plan ~~[disabled]~~.

Solely for purposes of this definition, when a member becomes entitled to a disability pension, the base pension shall be determined as of the date on which the disability pension begins.

(12) [(11)] “Board” means the board of trustees created under Section 3.01 of this article for the purpose of administering the pension system.

(13) [(12)] “Child” means a ~~[an unmarried]~~ person ~~[under the age of 19]~~ whose ~~[natural or adoptive]~~ parent, as recognized under the laws of this state, is a primary party.

(14) [(13)] “City” means each municipality having a population of more than 1.18 million and located predominantly in a county that has a total area of less than 1,000 square miles.

(15) “City attorney” means the chief legal officer of a city.

(16) [(14)] “City council” means the governing body of the city.

(17) “City manager” means the city manager of a city or the city manager’s designee and includes, to the extent of any designation, an interim or acting city manager, chief financial officer, budget director, or assistant city manager. If a city does not have an individual serving in a position otherwise described by this subdivision, “city manager” means the mayor of that city.

(18) [(15)] “City service incentive pay” means annual incentive pay, adjusted by the city from time to time, in addition to the salary of a member granted to the member under the authority of the city charter and received by the member during active service.

(19) [(16)] “Code” means the United States Internal Revenue Code of 1986, as amended.

(20) [(17)] “Combined pension plan” means any pension plan created pursuant to this article before September 1, 2017.

(21) [(18)] “Computation pay” shall be used in determining the amount of the city’s contribution under Section 4.02(d) of this article and a Group B member’s contribution under Section 4.03(d) of this article and in determining the base pension ~~[of any benefits]~~ to be paid to a Group B member or the benefits to be paid to the member’s qualified survivors and means the sum of the following:

(A) the biweekly ~~[monthly]~~ rate of pay of a ~~[Group B]~~ member for the highest civil service rank the person holds, from time to time, as a result of a competitive examination; plus

(B) the ~~[monthly rate of pay of a Group B member as]~~ educational incentive pay of a member, computed on a biweekly basis; plus

(C) the longevity ~~[monthly rate of]~~ pay of a ~~[Group B]~~ member ~~[as longevity pay]~~, as authorized by the legislature, computed on a biweekly basis; plus

(D) the city service incentive pay, computed on a biweekly ~~[monthly]~~ basis, of a ~~[Group B]~~ member.

The term includes only amounts actually paid in salary or payments made instead of salary to the member and member contributions picked up by the city, and does not

include any imputed pay. Furthermore, any ~~[Any]~~ compensation received by a ~~[Group B]~~ member, other than that noted in Paragraphs (A)–(D) of this subdivision (for example, compensation for overtime work, *certification pay*, and the ~~[monthly rate of]~~ pay a member would receive from the city in the form of assignment pay), will not be considered in determining the computation pay of a ~~[Group B]~~ member. Any lump-sum payments for compensatory time, unused sick leave, unused vacation time, or city service incentive pay payable after a ~~[Group B]~~ member leaves active service, *dies* ~~[death]~~, *becomes disabled* ~~[disability]~~, or *resigns* ~~[resignation]~~, or after any other type of termination may not be considered in determining the computation pay of any ~~[Group B]~~ member. Computation pay for a ~~[Group B]~~ member for any given period ~~[month]~~ is determined on the *biweekly* ~~[monthly]~~ rates of pay due the ~~[Group B]~~ member for the entire period ~~[month]~~. The term does not include compensation paid by the city to a person for prior periods of service or compensation that otherwise constitutes back pay unless the compensation is eligible back pay. The board may adopt rules and procedures necessary to include eligible back pay as computation pay for purposes of this definition, including rules regarding how increases in benefits will be determined and administered. ~~[If a Group B member works less than the member's assigned schedule for any given month, the computation pay for the Group B member shall be prorated for the portion of the month that the Group B member worked.]~~

~~[(19)]~~ “Educational incentive pay” means incentive pay designed to reward completion of certain hours of college credit, adjusted by the city from time to time, that is paid to a member in addition to the member’s salary.]

(22) ~~[(20)]~~ “Department” means either the police department of the city, the fire department of the city, or both the police and fire departments of the city together.

(23) ~~[(21)]~~ “Dependent parent” means a natural parent or parent who adopted a primary party and who immediately before the death of a primary party received over half of the parent’s financial support from the primary party.

(24) ~~[(22)]~~ “Disability retirement” means any period that a pensioner receives *periodic disability compensation* or a disability pension.

(25) “DROP” means the deferred retirement option plan established in accordance with Section 6.14 of this article.

(26) “Educational incentive pay” means incentive pay designed to reward completion of certain hours of college credit, adjusted by the city from time to time, that is paid to a member in addition to the member’s salary.

(27) “Eligible back pay,” except as otherwise provided by this definition, means additional compensation paid by the city to a member or pensioner:

(A) that constitutes back pay to the member’s or pensioner’s prior period of service and is otherwise considered taxable wages paid by the city to the member or pensioner for federal income tax purposes; and

(B) for which the pension system receives:

(i) an amount equal to the aggregate member and city contributions that the pension system would have collected with respect to the compensation for all time periods relating to the back pay compensation; and

(ii) interest, calculated using the pension system’s actuarial rate of return assumptions in effect for the periods relating to the back pay, compounded annually, on the contribution amounts for the period from the date that the contributions would have been received if the back pay compensation had been paid during the relevant periods of prior service through the date the amount relating to the contributions for back pay is actually received by the pension system.

The term does not include any additional compensation paid by the city to a member or pensioner wholly or partly or directly or indirectly as the result of litigation instituted to recover back pay.

The pension system is not obligated to collect the additional contributions or interest described in Paragraph (B) of this subdivision from the member, pensioner, or city. The

pension system may not recognize back pay as eligible back pay until the contributions and interest described in Paragraph (B) of this subdivision have been received.

(28) *"Executive director" means the person designated by the board to supervise the operation of the pension system.*

(29) ~~[(23)] "415 compensation" means a member's wages, salary, and other amounts received for personal services rendered in the course of employment with the city during a limitation year, but does not include:~~

~~[(A) contributions made by the city to a plan of deferred compensation, or a simplified employee pension plan, to the extent such contributions are excludable from the member's gross income;~~

~~[(B) any distributions from a plan of deferred compensation, or a simplified employee pension plan, to the extent the distributions are excludable from the member's gross income;~~

~~[(C) other amounts that received special tax benefits, such as premiums for group term life insurance, to the extent that the premiums are not includable in the gross income of the member, or contributions made by the city, including contributions toward the purchase of an annuity described by Section 403(b) of the code, whether or not contributed pursuant to a salary reduction agreement and whether or not the amounts are actually excludable from the gross income of the member; and~~

~~[(D) for any limitation year beginning after December 31, 1988, compensation in excess of \$200,000, adjusted in a manner permitted under Section 415(d) of the code.~~

~~[(24)] "Fund" means all funds and property held to provide benefits to [for the benefit of] all persons who are or who may become entitled to any benefits under any plan within the pension system, together with all income, profits, or other increments.~~

(30) ~~[(25)]~~ "Group A member" means any police officer or fire fighter *included in Group A membership under [described by]* Section 5.01(a)(1) of this article.

(31) ~~[(26)]~~ "Group B member" means any police officer or fire fighter *included in Group B membership under [described by]* Section 5.01(a)(2) of this article.

(32) ~~[(27)]~~ "Health director" means any qualified physician designated from time to time by the board.

(33) ~~[(28)]~~ "Limitation year" means the plan year of the combined pension plan and any defined benefit plan or defined contribution plan of the city in which a member participates.

(34) ~~[(29)]~~ "Longevity pay" means pay in addition to the salary of a member granted under Section 141.032, Local Government Code, for each year of active service completed by a member in either department.

(35) ~~[(30)]~~ "Member" means both Group A and Group B members.

(36) ~~[(31)]~~ "Member's account" means an account established and maintained for a member with respect to the member's total interest in one or more defined contribution plans under this article or maintained by the city resulting in annual additions.

(37) *"Nominations committee" means the nominations committee established under Section 3.011 of this article.*

(38) ~~[(32)]~~ "Old plan" means any pension plan created pursuant to Section 1 of Article 6243a.

(39) ~~[(33)]~~ "Pensioner," "Group A pensioner," or "Group B pensioner" means a former member of the pension system who is on either a service or disability retirement.

(40) ~~[(34)]~~ "Pension service" means the time, in years, and prorated for fractional years, that a member has contributed to the fund under the terms of the combined pension plan or any plan within the pension system, *reduced to reflect refunds that have been received and not fully repaid.*

(41) ~~[(35)]~~ "Pension system" means the fund and any plans created pursuant to this

article or Article 6243a and that are intended to be qualified under Section 401(a) of the code.

(42) [(36)] "Plan A" means any plan created pursuant to Section 11A of Article 6243a.

(43) [(37)] "Plan B" means any plan created pursuant to Section 11B of Article 6243a.

(44) [(38)] "Police officer" or "fire fighter" means, *as appropriate*, a police officer, fire fighter, *fire and rescue officer*, fire alarm operator, fire inspector, apprentice police officer, apprentice fire fighter, or similar employee of either department as defined in the classifications of the *human resources* [personnel] department of the city.

(45) [(39)] "Primary party," "Group B primary party," or "Group A primary party" means a member[, former member,] or pensioner.

(46) [(40)] "Qualified actuary" means either:

(A) an individual who is a Fellow of the Society of Actuaries, a Fellow of the Conference of *Consulting* Actuaries [in Public Practice], or a member of the American Academy of Actuaries; or

(B) a firm that employs one or more persons who are Fellows of the Society of Actuaries, Fellows of the Conference of *Consulting* Actuaries [in Public Practice], or members of the American Academy of Actuaries and are providing services to the pension system.

(47) [(41)] "Qualified domestic relations order" has the meaning provided by Section 414(p) [414] of the code.

(48) [(42)] "Qualified survivor" means a person who is eligible to receive *death* [survivor] benefits after the death of a primary party and includes *only*:

(A) a surviving spouse, if the spouse was continuously married to the primary party *from* [both at] the date when the primary party either voluntarily or involuntarily left active service as a member *through* [and at] the date of the primary party's death;

(B) all surviving, unmarried[, legitimate, and legally adopted] children *who are either under 19 years of age or have a disability, as determined by the board under Section 6.06(o-2) of this article, and who were*:

(i) born or adopted before the primary party [as a member] either voluntarily or involuntarily left active service; or

(ii) [who were] born after *the primary party* [a member] left active service if the mother was pregnant *with the child* before the *primary party* [member] left active service; and

(C) a surviving dependent parent of a primary party if the primary party is not survived by a spouse or child eligible for benefits.

(49) [(43)] "Service retirement" means any period that a pensioner receives a retirement pension but does not include any period of disability retirement.

(50) [(44)] "Spouse" means the *person to whom* [husband or wife of] a primary party *is legally married* [recognized] under the laws of this state or any other state.

(51) "Traditional asset" includes stocks, bonds, and cash [(45) "Total wages and salaries" means all pay received by a member of any plan within the pension system from the city, excluding any lump-sum payments for unused sick time or unused vacation time accrued by any member and payable as the result of the member's death, disability, resignation, or any other reason for leaving active service].

(52) [(46)] "Trustee" means a member of the board.

(53) "Two-thirds vote," in reference to a vote of all the trustees, means a vote of 8 of the 11 trustees of the board.

SECTION 1.03. Sections 2.02(a) and (b), Article 6243a-1, Revised Statutes, are amended to read as follows:

(a) If the amount of any benefit or contribution is to be determined on the basis of actuarial assumptions that are not otherwise specifically set forth for that purpose in this article, the actuarial assumptions to be used are those earnings and mortality as-

sumptions being used on the date of the determination by the pension system's qualified actuary and approved by the board.

(b) The actuarial assumptions being used at any particular time shall be attached by the *executive director* ~~[administrator]~~ as an addendum to this article and treated for all purposes as a part of any plan created by this article. *The executive director shall promptly update any addendum to conform to any changed actuarial assumptions approved by the board.*

SECTION 1.04. Part 2, Article 6243a-1, Revised Statutes, is amended by adding Sections 2.025 and 2.03 to read as follows:

Sec. 2.025. INDEPENDENT ACTUARIAL ANALYSIS AND LEGISLATIVE RECOMMENDATIONS. (a) Before July 1, 2024, the State Pension Review Board shall select an independent actuary who the board shall hire to perform an actuarial analysis of the most recently completed actuarial valuation of the pension system. The independent actuary shall submit the analysis to the State Pension Review Board and the board not later than October 1, 2024. The analysis must include the independent actuary's:

(1) conclusion regarding whether the pension system meets State Pension Review Board pension funding guidelines; and

(2) recommendations regarding changes to benefits or to member or city contribution rates.

(b) Subject to Subsection (d) of this section, not later than November 1, 2024, the board shall by rule adopt a plan that:

(1) complies with funding and amortization period requirements applicable to the pension system under Subchapter C, Chapter 802, Government Code; and

(2) takes into consideration the independent actuary's recommendations under Subsection (a)(2) of this section.

(b-1) The board shall provide a copy of the analysis prepared under Subsection (a) of this section and a summary of any rules adopted by the board under Subsection (b) of this section to the State Pension Review Board.

(c) Not later than December 1, 2024, the State Pension Review Board shall submit a report to the legislature regarding actions taken under this section. The report required under this section must include a copy of the analysis prepared under Subsection (a) of this section and a summary of rules adopted by the board under Subsection (b) of this section.

(d) Notwithstanding any other provision of this article, a rule adopted by the board under Subsection (b) of this section that conflicts with a provision of this article remains in effect until:

(1) a law that is enacted by the legislature and becomes law preempts the rule; or

(2) the board amends the rule and the amendment takes effect, provided the board may only amend the rule if the pension system complies with the funding and amortization period requirements applicable to the pension system under Subchapter C, Chapter 802, Government Code.

(e) This section expires September 1, 2025.

Sec. 2.03. REFERENCES TO CERTAIN LAW. A reference to a statute made in this article includes a reference to any regulation, rule, order, or notice made by a governmental entity with the authority under law to adopt the regulation, rule, order, or notice, and on which the governmental entity intends persons to rely, as appropriate.

SECTION 1.05. Section 3.01, Article 6243a-1, Revised Statutes, is amended by amending Subsections (a), (b), (d), (e), (f), (h), (i), (j), (n), and (o) and adding Subsections (b-1), (b-2), (b-3), (b-4), (j-1), (j-2), (j-3), (j-4), (j-5), (j-6), (j-7), (j-8), (j-9), (j-10), (o-1), (p), (q), (r), and (s) to read as follows:

(a) The pension system shall be administered by the board. The board shall execute its fiduciary duty to hold and administer the assets of the fund for the exclusive benefit of

members and their beneficiaries under Section 802.203, Government Code, Section 67(f), Article XVI, Texas Constitution, and any other applicable law, in a manner that ensures the sustainability of the pension system for purposes of providing current and future benefits to members and their beneficiaries.

(b) Subject to Subsections (b-1) and (b-2) of this section, the [The] board consists of 11 [seven] trustees who shall be selected and shall serve as follows:

(1) six trustees appointed by the mayor, in consultation with the city council;

(2) three trustees elected under rules adopted by the board by the members and pensioners of the pension system from a slate of nominees, in a number determined under the rules, selected and vetted by the nominations committee;

(3) subject to Subsection (b-3) of this section, one trustee who is a current or former police officer of the city nominated and elected by members of the pension system under rules adopted by the board; and

(4) subject to Subsection (b-3) of this section, one trustee who is a current or former fire fighter of the city nominated and elected by members of the pension system under rules adopted by the board.

(b-1) To be appointed or elected a trustee under this section, a person:

(1) must have demonstrated financial, accounting, business, investment, budgeting, real estate, or actuarial expertise; and

(2) may not be an elected official of the city.

(b-2) To be appointed or elected a trustee under Subsection (b)(1) or (2) of this section a person may not be an active member or pensioner.

(b-3) If the board determines that it is not possible to nominate or elect a trustee under Subsection (b)(3) or (4) of this section who meets the requirements of Subsection (b-1) of this section, the board shall notify the nominations committee and the nominations committee shall select, vet, and nominate a slate of persons, the number of which is determined by board rule, who meet the requirements of Subsection (b-1) of this section, and the members of the pension system shall elect a trustee from the slate of nominees to represent the interests of police officers or fire fighters, as appropriate, of the city on the board. The nomination and election of a trustee under this subsection may be made without regard to whether the trustee is qualified under Subsection (b)(3) or (4), as applicable, of this section.

(b-4) A trustee is not required to reside in a particular city or county of this state. [The city council shall name from among its members three council members who shall serve as trustees of the board. The council member trustees shall be named as soon as possible after the first Monday in May of each odd-numbered year and shall serve for the term of office to which they were elected as council members. If there is a vacancy in any of the council member trustees' seats on the board, the city council shall name another council member to serve out the remainder of the unexpired term.]

[(2) The police and fire department members of the pension plans within the pension system shall separately, by department and not by plan, elect from among their respective memberships two active police officer and two active fire fighter members. On their election, each of the trustees under this subdivision shall execute a written affirmation of the person's undertaking to faithfully perform duties to the pension system. The police and fire department trustees shall serve terms of four years each, the terms being staggered so that one term, but not both from the same department, shall expire on June 1 of each odd-numbered year. If a vacancy occurs among the police and fire department trustees, the vacancy shall be filled in accordance with the provisions of Subsection (d) of this section. The police and fire department trustees will continue to serve beyond the expiration of their terms, if their successors have not been elected and affirmed in writing their undertaking to faithfully perform their duties to the pension system, until their successors are elected and have affirmed in writing their undertaking to faithfully perform their duties to the pension system.]

(d) A [If a] vacancy on the board in a trustee position under Subsection (b)(1) or (2) of

this section shall be filled in the same manner as the original appointment, or election. The board by rule shall determine the manner by which a vacancy in a trustee position under Subsection (b)(3) or (4) of this section is filled [occurs among the police or fire department alternate trustees, for reasons other than the failure to elect a successor alternate trustee or the occurrence of a vacancy among the regular trustees of either department, the board shall appoint a new alternate trustee representing the department from which the vacancy occurs to serve as the alternate trustee for the remainder of the alternate trustee's term]. [A candidate is not eligible for election to an alternate trustee position and to a regular trustee position during the same election.]

(e) The mayor shall determine whether all trustees appointed under Subsection (b)(1) of this section hold office for staggered two-year terms or staggered three-year terms. The nominations committee shall determine whether all trustees elected under Subsection (b)(2), (3), or (4) of this section hold office for staggered two-year terms or staggered three-year terms. A trustee appointed or elected, as applicable, under Subsection (b)(1) or (2) of this section may not serve for more than six consecutive years on the board [If a vacancy occurs among the police or fire department regular trustees, the alternate trustee representing the department from which the vacancy occurs shall serve as the regular trustee for the remainder of the unexpired regular trustee's term]. [Thereafter, the board shall appoint a new alternate trustee from the same department to serve for a period ending on the earlier of the expiration of the regular trustee's term or the original alternate trustee's term. If the original alternate trustee's term has not expired after serving in place of the regular trustee, then that person shall serve out the remainder of the unexpired term. After a new regular trustee has been elected, the original alternate trustee shall return to serve as an alternate trustee until the regular trustee's term has expired. However, if the original alternate trustee, while an alternate trustee, is elected to a full term as a regular trustee before the expiration of the term as an alternate trustee, the term of the new alternate trustee extends until the expiration of the original alternate trustee's term.]

(f) The election of the trustees under Subsection (b)(2), (3), or (4) of this section, including an election under Subsection (b-3) of this section to fill a trustee position under Subsection (b)(3) or (4) of this section, [representing the police and fire departments] shall be held under the supervision of the board, and the board shall adopt such rules [and regulations] governing the election procedure as it considers appropriate, as long as the rules [and regulations] are consistent with generally accepted principles of secret ballot and majority rule. The rules [and regulations] adopted by the board shall be recorded in the minutes of the board and made available to the members of any pension plan within the pension system.

(h) The executive director [administrator], or in the executive director's [administrator's] absence a member of the administrative staff designated by the board, shall serve as the secretary of the board.

(i) The board shall serve without separate compensation from the fund, but a trustee is entitled to reimbursement for travel expenses and, if applicable, [with entitlement] to any appropriate compensation from the city as if the trustee [board members] were performing the trustee's [their] regular functions for the police or fire department or for the city. The board shall meet not less than once each month and may meet at any time on the call of its chairman.

(j) The board has full power to make rules [and regulations] pertaining to the conduct of its meetings and to the operation of the pension system as long as its rules are not, subject to Subsections (j-1) and (j-2) of this section, inconsistent with the terms of this article, any pension plan within the pension system, or the laws of this state or the United States to the extent applicable. A board meeting may be held by telephone conference call or by videoconference call in accordance with Sections 551.125 and 551.127, Government Code, except that Section 551.125(b), Government Code, does not apply.

(j-1) Subject to Subsection (o)(2) of this section, the board may adopt a rule that conflicts with this article:

(1) to ensure compliance with the code, including Section 415 of the code, and other applicable federal law;

(2) subject to Subsections (j-5) through (j-8) of this section, to amortize the unfunded actuarial accrued liability of the pension system within a period that does not exceed 35 years, if the board determines the rule is appropriate based on the evaluations required under Subsection (j-5) of this section; or

(3) subject to Subsections (j-6) and (j-7) of this section and notwithstanding any other law, to increase the benefits provided under this article in any manner the board determines appropriate if the increase will not cause the amortization period of the unfunded actuarial accrued liability of the pension system to exceed 25 years, after taking into account the impact of the increase.

(j-2) Except as provided by Subsection (j-1) of this section or Section 4.02(b) of this article, a provision of any plan provided by the pension system may only be amended if approved by the board. An amendment described by this subsection:

(1) may not cause the amortization period of the unfunded actuarial accrued liability of the pension system to exceed 35 years, after taking into account the impact of the amendment, as determined by the board and reviewed by the State Pension Review Board; and

(2) is not required to be ratified by the legislature.

(j-3) The board may correct any defect, supply any omission, and reconcile any inconsistency that may appear in this article in a manner and to the extent that the board believes would:

(1) be expedient for the administration of the pension system;

(2) be for the greatest benefit of all members, pensioners, and qualified survivors; and

(3) not adversely affect the benefits of a member, pensioner, or qualified survivor.

(j-4) The board has full discretion and authority to construe and interpret the combined pension plan and to do all acts necessary to carry out the purpose of the combined pension plan. A decision of the board is final and binding on all affected parties.

(j-5) Not later than January 1, 2018, the board shall conduct an evaluation of:

(1) how benefits are computed under this article to identify potential means of abusing the computation of benefits to inflate pension benefits received by pensioners; and

(2) the impact, including the impact on the combined pension plan, of establishing one or more alternative benefit plans, including a defined contribution plan or a hybrid retirement plan that combines elements of both a defined benefit plan and a defined contribution plan, for newly hired employees of the city and for members who voluntarily elect to transfer to an alternative benefit plan.

(j-6) The board may not adopt a rule under Subsection (j-1)(2) or (3) of this section unless the rule has first been reviewed by the State Pension Review Board and the State Pension Review Board finds that implementation of a rule under:

(1) Subsection (j-1)(2) of this section complies with the amortization period prescribed by that subdivision and Subsection (j-8) of this section; or

(2) Subsection (j-1)(3) of this section complies with the amortization period prescribed by that subdivision.

(j-7) The board shall provide the State Pension Review Board with a copy of a proposed rule for purposes of Subsection (j-6) of this section at least 90 days before the date the board intends to implement the rule.

(j-8) The board may not adopt a rule under Subsection (j-1)(2) of this section based on an evaluation under Subsection (j-5)(2) of this section if the board determines implementation of the rule would cause the amortization period of the unfunded actuarial accrued liability of the combined pension plan or any plan established under this article by the pension system to exceed 35 years, after taking into account implementation of the rule.

(j-9) At least twice each year, the board shall have a meeting to receive public input regarding the pension system and to inform the public about the health and performance

of the pension system. The State Pension Review Board is entitled to all documents and other information provided to the public or that are the basis for information provided to the public, as determined by the State Pension Review Board, for purposes of this subsection and shall independently review the information to ensure its validity.

(j-10) An employee or other agent acting on behalf of the pension system or the city must certify to the State Pension Review Board that any information provided by the pension system or city, as appropriate, under this article or other law is accurate and based on realistic assumptions.

(n) Six ~~Four~~ trustees of the board constitute a quorum at any ~~called~~ meeting; ~~except that a trustee from the police department and a trustee from the fire department must be present to conduct business~~.

(o) No action may be taken by the board except at a meeting. *Except as otherwise specifically provided by this article or other law:*

(1) ~~and~~ no action shall be taken during a board meeting without the approval of a majority of the trustees of the board; and

(2) *no action otherwise authorized by this article or other law may be taken that establishes an alternative benefit plan, reduces the city contribution rate, increases the member contribution rate, or reduces benefits, including accrued benefits, without the approval of at least a two-thirds vote of all the trustees of the board* ~~present~~.

(o-1) Only actions of the board taken or approved of during a meeting are binding on the board, and no other written or oral statement or representation made by any person is binding on the board or the pension system.

(p) The board may file suit on behalf of the pension system in a court of competent jurisdiction regardless of the court's location. The board has sole authority to litigate matters on behalf of the pension system. Notwithstanding Chapter 15, Civil Practice and Remedies Code, or any other law, an action against the pension system or the board shall be brought in a court of competent jurisdiction located in the city or county in which the pension system is located.

(q) The board may purchase from one or more insurers one or more insurance policies that provide for the reimbursement of a trustee or employee of the pension system for liability imposed as damages caused by, and for costs and expenses incurred by the individual in defense of, an alleged act, error, or omission committed by the individual in the individual's capacity as a fiduciary or employee of the pension system. The board may not purchase an insurance policy that provides for the reimbursement of a trustee or employee of the pension system due to the trustee's or employee's dishonesty, fraudulent breach of trust, lack of good faith, intentional fraud or deception, or intentional failure to act prudently.

(r) The board shall adopt a code or codes of ethics consistent with Section 825.212, Government Code. In adopting or amending a code or codes of ethics, the board may consider comments on the policy from the city attorney of the city. The board shall:

(1) review the code or codes of ethics on an annual basis and amend the code or codes as the board considers necessary;

(2) file a copy of the code or codes of ethics adopted or amended in accordance with this subsection with the State Pension Review Board; and

(3) provide a copy of the code or codes of ethics adopted or amended in accordance with this subsection to the city attorney.

(s) The board shall develop an Internet website designed to give active members and pensioners access to the information concerning the pension system and the individual's participation in the pension system required by Section 802.106, Government Code, as well as information concerning the financial health of the pension system.

SECTION 1.06. Part 3, Article 6243a-1, Revised Statutes, is amended by adding Sections 3.011, 3.012, and 3.013 to read as follows:

Sec. 3.011. **NOMINATIONS COMMITTEE.** (a) Subject to Subsection (b) of this section, the nominations committee consists of:

- (1) *the executive director, who is a nonvoting member; and*
- (2) *the president, chair, or other executive head of the following organizations or their successor organizations, or that person's designee:*
 - (A) *the Dallas Black Firefighters Association;*
 - (B) *the Black Police Association of Greater Dallas;*
 - (C) *the National Latino Law Enforcement Organization;*
 - (D) *the Dallas Fraternal Order Police Lodge 588;*
 - (E) *the Dallas Police Association;*
 - (F) *the Dallas Fire Fighters Association, International Association of Fire Fighters Local No. 58;*
 - (G) *the Dallas Hispanic Firefighters Association, Inc.;*
 - (H) *the Dallas Police Retired Officers Association;*
 - (I) *the Dallas Retired Firefighters Association;*
 - (J) *the Retired Black Firefighters Association of Dallas; and*
 - (K) *the Dallas Hispanic Retired Fire Fighters Association.*
- (b) *If an organization described by Subsection (a)(2) of this section elects not to participate on the nominations committee, is prohibited from participating on the nominations committee under Subsection (g) of this section, or ceases to exist, the nominations committee members appointed under that subsection consist only of representatives of the remaining organizations, if any.*
- (c) *The executive director shall serve as presiding officer of the nominations committee.*
- (d) *The nominations committee shall meet at the call of the presiding officer.*
- (e) *The nominations committee shall nominate trustees to the board in accordance with Sections 3.01(b)(2) and (b-3) of this article.*
- (f) *A person serving on the nominations committee under Subsection (a)(2) of this section serves without compensation and may not be reimbursed for travel or other expenses incurred while conducting the business of the nominations committee. The executive director may not receive additional compensation for service on the nominations committee.*
- (g) *An organization described by Subsection (a)(2) of this section may not participate on the nominations committee unless the organization is in good standing with the secretary of state, if applicable.*
- (h) *Chapter 2110, Government Code, does not apply to the nominations committee.*
- (i) *The nominations committee may establish policies and procedures governing its operations.*

Sec. 3.012. REMOVAL OF TRUSTEES. (a) *In accordance with procedures adopted by board rule, a trustee:*

- (1) *appointed under Section 3.01(b)(1) of this article may be removed by the mayor for cause; and*
- (2) *elected under Section 3.01(b)(2), (3), or (4) of this article may be removed by the nominations committee for cause.*
- (b) *It is a cause for removal of a trustee from the board that the trustee:*
 - (1) *does not have at the time of taking office the qualifications required by Section 3.01(b) or (b-1)(1) of this article, subject to Subsection (b-3) of that section;*
 - (2) *does not maintain during service on the board the qualifications required by Section 3.01(b) or (b-1)(1) of this article, subject to Subsection (b-3) of that section;*
 - (3) *is ineligible for membership under Section 3.01(b-1)(2) or (b-2) of this article; or*
 - (4) *is absent from more than 40 percent of the meetings that the trustee is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.*

(c) *The validity of an action of the board is not affected by the fact that it is taken when a cause for removal of a trustee exists.*

(d) *If the executive director has knowledge that a potential cause for removal exists, the executive director shall notify the chairman of the board of the potential cause. The chairman shall then notify the mayor or nominations committee, as appropriate, that a potential cause for removal exists. If the potential cause for removal involves the chairman, the executive director shall notify the vice chairman or next highest ranking officer of the board, who shall then notify the mayor or nominations committee, as appropriate, that a potential cause for removal exists.*

Sec. 3.013. **TRUSTEE TRAINING.** (a) *A person who is appointed or elected to the board and qualifies for office as a trustee shall complete a training program that complies with this section.*

(b) *The training program must provide the person with information regarding:*

- (1) *the law governing the pension system's operations;*
- (2) *the programs, functions, rules, and budget of the pension system;*
- (3) *the scope of and limitations on the rulemaking authority of the board;*
- (4) *the results of the most recent formal audit of the pension system;*
- (5) *the requirements of:*

(A) *laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest; and*

(B) *other laws applicable to a trustee in performing the trustee's duties, including the board's fiduciary duties described under Section 3.01(a) of this article;*

(6) *the code or codes of ethics adopted under Section 3.01(r) of this article and any applicable ethics policies adopted by the Texas Ethics Commission; and*

(7) *financial training regarding the risks of investing in alternative investments.*

(c) *The executive director shall create a training manual that includes the information required by Subsection (b) of this section. The executive director shall distribute a copy of the training manual annually to each trustee. On receipt of the training manual, each trustee shall sign and submit to the executive director a statement acknowledging receipt of the training manual.*

SECTION 1.07. Section 3.02, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 3.02. **PROFESSIONAL CONSULTANTS.** In addition to the authority of the board to employ the services of certain consultants set forth in this article, the board has the authority to employ the services of any professional consultant *recommended by the executive director, including investment advisors and investment managers*, whenever the services of the consultants ~~[consultant]~~ are considered necessary or desirable and in the best interests of the pension system, *as determined by the board in consultation with the executive director*. A professional consultant shall receive such compensation as may be determined by the board in accordance with Section 4.01 of this article.

SECTION 1.08. Part 3, Article 6243a-1, Revised Statutes, is amended by adding Section 3.025 to read as follows:

Sec. 3.025. **CHIEF INVESTMENT OFFICER.** *The executive director may hire a chief investment officer, subject to confirmation by the board, to assist the pension system regarding the investment of assets of the fund. Compensation for a chief investment officer hired under this section shall be made in accordance with Section 4.01 of this article.*

SECTION 1.09. Section 3.03, Article 6243a-1, Revised Statutes, is amended by amending Subsections (b) and (c) and adding Subsection (b-1) to read as follows:

(b) *Subject to Subsection (b-1) of this section, the [The] city attorney or an assistant city attorney may ~~[shall]~~ attend board ~~[all]~~ meetings ~~[of the board]~~ and may advise the*

board on any matter on which the pension system [board] requests a legal opinion from the city attorney.

(b-1) *The city attorney or an assistant city attorney is not required to provide an opinion under Subsection (b) of this section unless the opinion is requested by the city council on behalf of the pension system. The city attorney or assistant city attorney may decline to provide the opinion if the subject matter of the request is too dependent on disputed facts to permit a generalized opinion, as determined by the city attorney or assistant city attorney.*

(c) The board may retain other attorneys to serve as legal advisors to [represent] the board [or to give advice]. The executive director may hire a chief legal officer, subject to confirmation by the board, or other attorneys if necessary to carry out the business of the pension system. Compensation for a chief legal officer or other attorneys hired under this subsection shall be made in accordance with Section 4.01 of this article.

SECTION 1.10. Section 3.04, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 3.04. APPOINTMENT OF EXECUTIVE DIRECTOR [ADMINISTRATOR].

(a) The board has the authority to appoint an executive director [administrator] to assist [carry out the business of] the board with administering the pension system and ensure that records are kept [to keep a record] of the proceedings of the board. Subject to Subsection (a-1) of this section, a person appointed executive director under this section:

(1) must have, to the extent possible, relevant experience in managing a similarly situated business entity; and

(2) may not be a current or former trustee [The administrator, in carrying out the business of the board within the scope of the administrator's responsibility, may not be considered a fiduciary with respect to the pension system].

(a-1) During any period in which the most recent actuarial valuation of the pension system indicates that the period needed to amortize the unfunded actuarial accrued liability of the pension system exceeds 35 years, the board shall, to the extent lapsed investments are a significant portion of the pension system's assets, ensure that the executive director appointed under Subsection (a) of this section has, or hires staff that has, appropriate experience in managing a business entity with lapsed investments in a manner that resulted in the improved liquidity or profitability of the business entity.

(b) Subject to Subsections (b-1) and (b-3) of this section [the approval of the board], the executive director [administrator] may select any number of persons the executive director determines appropriate to assist the executive director in carrying out the executive director's duties under this section. Subject to Section 4.01 of this article, the titles and salaries of persons selected to assist the executive director shall be determined by the executive director.

(b-1) The executive director may not select a person to assist the executive director who is an active, former, or retired police officer or fire fighter of the city [administrator].

(b-2) The executive director shall establish the organizational structure of pension system employees to optimize administration of the pension system.

(b-3) A former or retired employee of the city may not before the second anniversary of the first day of the month following the date the person terminated employment with the city serve the pension system in any capacity other than as a trustee. Except as specifically provided by this article, including Section 3.01(b)(3) or (4) of this article, or other law, an employee of the city may not serve the pension system in any capacity.

(c) The executive director [Both the administrator] and those persons selected to assist the executive director [administrator] may be considered employees of the city. Unless otherwise delegated to the executive director [administrator], the board shall have the ultimate authority to retain, discipline, or terminate the engagement of the executive director.

(d) If acting in the executive director's own discretion, the executive director owes a fiduciary duty to the pension system and shall ensure the sustainability of the pension

system for the purpose of providing current and future benefits to members of the pension system and their beneficiaries ~~[any persons selected under this subsection]~~. If the executive director is acting at the direction of the board and not exercising the executive director's own discretion, the executive director does not owe a fiduciary duty under this subsection.

SECTION 1.11. Sections 4.01(a), (c), and (d), Article 6243a-1, Revised Statutes, are amended to read as follows:

(a) The board shall pay for all costs of administration out of the income from the fund when in the judgment of the board the costs are necessary, including the cost of:

(1) salaries and benefits for the executive director ~~[of the administrator, assistant administrator,]~~ and administrative staff;

(2) ~~;~~ office expenses;

(3) expenses associated with securing~~;~~ adequate office space and associated utilities;

(4) compensation for ~~[-and]~~ professional consultants, professional investment managers, or other persons providing professional services; and

(5) any other expenses approved by the board~~[-out of income from the fund when it is actuarially determined that the payments will not have an adverse effect on the payment of benefits from any of the plans within the pension system and when in the judgment of the board the costs are necessary]. [The city shall provide for costs of administration if the board determines that payment of the costs by the fund will have an adverse effect on the payment of benefits from any plan within the pension system.]~~

(c) No expenditure for the costs of administration, including the ~~[or]~~ payment of any fee for professional consultants, professional investment management services, or any other person providing professional services, may be made from the fund without the approval of the board.

(d) After the board has developed an annual budget for the pension system, the budget shall be presented to the city manager ~~[city's budget office]~~ for comment. The city manager ~~[city's budget office]~~ may request the board to reconsider the appropriation for any expenditure at a board meeting, but the board shall make the final determination concerning any appropriation.

SECTION 1.12. Sections 4.02(b), (d), and (e), Article 6243a-1, Revised Statutes, are amended to read as follows:

(b) Funds contributed by the city as its share of the amount required to finance the payment of benefits under the pension system may be used for no other purpose. *The city is not responsible for the payment of any administrative or professional service fees of the pension system. Any change to the* ~~[The]~~ contributions required to be made to the pension system by the city ~~[shall be annually appropriated by the city council and periodically paid on the basis of a percentage of the total wages and salaries of the members of the police and fire departments who are members of each of the plans within the pension system. The amount of this percentage and any change in it]~~ may ~~[be determined]~~ only be made:

(1) by the legislature; ~~[or]~~

(2) by a majority vote of the voters of the city; or

(3) in accordance with a written agreement entered into between the pension system, by at least a two-thirds vote of all trustees of the board, and the city, provided that a change made in accordance with this subdivision may not increase the period required to amortize the unfunded actuarial accrued liability of the fund.

(d) Subject to Section 4.025 of this article, the city shall make contributions to the pension system biweekly in an amount equal to the sum of:

(1) the greater of:

(A) 34.5 percent of the aggregate computation pay paid to members during the period for which the contribution is made; or

(B) the applicable amount set forth below:

(i) \$5,173,000 for the biweekly pay periods beginning with the first biweekly pay period that begins after September 1, 2017, and ends on the last day of the first biweekly pay period that ends after December 31, 2017;

(ii) \$5,344,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (i) of this paragraph;

(iii) \$5,571,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (ii) of this paragraph;

(iv) \$5,724,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (iii) of this paragraph;

(v) \$5,882,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (iv) of this paragraph;

(vi) \$6,043,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (v) of this paragraph;

(vii) \$5,812,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (vi) of this paragraph;

(viii) \$6,024,000 for the 26 biweekly pay periods immediately following the last biweekly pay period described by Subparagraph (vii) of this paragraph through the biweekly pay period that ends after December 31, 2024; and

(ix) \$0 for each subsequent biweekly pay period beginning with the first biweekly pay period following the last biweekly pay period described by Subparagraph (viii) of this paragraph; and

(2) except as provided by Subsection (e) of this section, an amount equal to 1/26th of \$13 million. ~~[The percentage of required contributions from the city shall be in accordance with the following schedule and any increase or decrease in city contributions shall occur automatically on any increases or decreases in the members' contribution percentage:~~

City Contributions

~~28-1/2%~~

~~27-1/2%~~

~~26%~~

~~24-1/2%~~

~~23%~~

~~21-1/2%~~

Member Contributions

9%

8-1/2%

8%

7-1/2%

7%

6-1/2%]

(e) The city is required to pay the contribution amount described by Subsection (d)(2) of this section only through the last biweekly pay period that ends after December 31, 2024 ~~[may elect to contribute more than that required in the schedule provided by Subsection (d) of this section, except that the city's contribution percentage may not exceed 28-1/2 percent unless approved as provided by Subsection (b) of this section. Further, in no event may the city's contribution be less than 21-1/2 percent unless approved as provided by Subsection (b)].~~

SECTION 1.13. Part 4, Article 6243a-1, Revised Statutes, is amended by adding Section 4.025 to read as follows:

Sec. 4.025. CITY OR MEMBER CONTRIBUTIONS IF NO UNFUNDED ACTUARIAL LIABILITIES. Notwithstanding Section 4.02 or 4.03 of this article, if the pension system has no unfunded actuarial liability according to the most recent actuarial valuation, the annual normal costs must be equally divided between the city and the members unless equally dividing the costs would increase the member contribution rates beyond the rates prescribed by Section 4.03 of this article. The board shall adjust the city contribution rates under Section 4.02 of this article and the member contribution rates under

Section 4.03 of this article accordingly, and certify the adjusted rates. After the completion of a subsequent actuarial valuation showing unfunded actuarial liabilities, the contribution rates applicable under Sections 4.02 and 4.03 of this article apply.

SECTION 1.14. Section 4.03, Article 6243a-1, Revised Statutes, is amended by amending Subsections (a), (b), (c), (d), and (g) and adding Subsections (a-1), (d-1), (d-2), and (i) to read as follows:

(a) *Subject to Subsection (a-1) of this section and except as provided by Section 4.025 of this article, each [Each] Group A member of the combined pension plan shall have 13.5 [6.5] percent of base pay deducted from the member's wages on a biweekly basis [each month], and the contributions shall be promptly remitted to the fund by the city.*

(a-1) If a Group A member is assigned, for any period, to a job-sharing program or any similar work schedule that is considered by the member's department to be less than a full-time work schedule, the member's contributions are determined by multiplying the applicable contribution rate by a fraction, the numerator of which is the number of hours the member actually worked during the period and the denominator of which is the number of hours the member would have worked during the period if the member had been working a full-time work schedule.

(b) Each member shall [continue to] contribute to the fund under the applicable terms of this article [section] until the member leaves active service with either department. If a member leaves active service with a department, [or until the beginning of the member's 33rd year of pension service, at which time] the member shall cease making contributions.

(c) Each Group B member shall authorize the city to deduct from the member's salary a percentage of the member's computation pay. The authorization shall be in writing and filed with the executive director [administrator].

(d) Subject to Subsection (d-1) of this section and except as provided by Section 4.025 of this article, for pay periods starting on or after September 1, 2017, each [Each] Group B member shall have 13.5 [8.5] percent of the member's computation pay deducted from the member's wages on a biweekly basis [each month], and the contributions shall be promptly remitted to the fund by the city.

(d-1) If a Group B member is assigned, for any period, to a job-sharing program or any similar work schedule that is considered by the member's department to be less than a full-time work schedule, the member's contributions are determined by multiplying the applicable contribution rate by a fraction, the numerator of which is the number of hours the member actually worked during the period and the denominator of which is the number of hours the member would have worked during the period if the member had been working a full-time work schedule.

(d-2) For purposes of Subsection (d) of this section, "computation pay" includes computation pay paid to a Group B member during any period the member is receiving workers' compensation.

(g) The percentage of base pay contributed by Group A members or computation pay contributed by Group B members may not be altered except by an adjustment under Section 4.025 [amendment pursuant to the terms of Section 4.02] of this article.

(i) Member contributions under this article or any payments a member is entitled to make under this article to receive additional pension service may be picked up by the city under the terms of an appropriate resolution of the city council.

SECTION 1.15. Section 4.04, Article 6243a-1, Revised Statutes, is amended by amending Subsections (a), (c), (d), (e), (f), (g), (h), (j), and (k) and adding Subsections (f-1) and (h-1) to read as follows:

(a) Except as provided by Subsection (d) or (e) of this section, a [A] Group B member who, either voluntarily or involuntarily, leaves active service is entitled to a refund from the fund of the total amount of the member's Plan B and Group B contributions, without interest, that were paid beginning with the effective date of the member's Group B membership or membership in Plan B. A refund under this subsection results in a total

cancellation of pension service credit and the member and any person who would otherwise take by, through, or under the member is not entitled to any benefits from the pension system [an appropriate reduction of pension service].

(c) A ~~[former]~~ Group B member *who desires* ~~[desiring]~~ a refund of the Plan B or Group B contributions *under Subsection (a) of this section* ~~[the person made to the fund]~~ must make written application for the refund with the *executive director* ~~[administrator]~~. In no case may any refund be made to a ~~[any former]~~ Group B member before the expiration of 30 days after the date the person leaves active service.

(d) Subject to Subsection (k) of this section, if a Group B member with less than five years of pension service either voluntarily or involuntarily leaves active service and fails to make written application for a refund of contributions within three years after the date of the notice described by Subsection (j) of this section ~~[is]~~ made by the board, the person forfeits the right to withdraw any portion of the contribution, and the total amount of Plan B and Group B contributions the person made will remain in the fund. If the Group B member described by this subsection dies after leaving active service, the ~~[person's heirs or, if there are no heirs, the]~~ deceased member's *designee* ~~[estate]~~ may apply for the refund of the person's contributions, resulting in an appropriate loss of pension service if the application is filed with the *executive director* ~~[administrator]~~ within three years after the date of the notice described by Subsection (j) of this section ~~[is]~~ made by the board. Subject to Subsection (k) of this section, if a Group B member's *designee* ~~[heirs or estate]~~ fails to apply for a refund of the Group B member's contributions within the three-year period described by this subsection, the *designee forfeits* ~~[heirs and the estate forfeit]~~ any right to the contributions, and the total amount of the Plan B and Group B contributions made by the Group B member will remain in the fund.

(e) Subject to Subsection (k) of this section, if a Group B member with five or more years of pension service either voluntarily or involuntarily leaves active service and fails to make written application for a refund of the person's Plan B and Group B contributions within three years after the date of the notice described by Subsection (j) of this section ~~[is]~~ made by the board, the person forfeits the right to withdraw any portion of the contributions, and the total amount of the contributions will remain in the fund. A Group B member described by this subsection may, however, apply for a *Group B retirement pension* ~~[benefits]~~ under Section 6.02 of this article or, if the Group B member dies before the member is eligible to apply for a Group B retirement pension, the *member's qualified survivors* ~~[benefits, the person's heirs or, if there are no heirs, the deceased member's estate]~~ may apply for Group B death benefits under Sections 6.06, 6.061, 6.062, and 6.063 of this article. *If the Group B member dies before the member is eligible to apply for a Group B retirement pension and the member has no qualified survivors, the Group B member's designee* ~~[in accordance with the provisions of this article, or the heirs or the estate]~~ may apply for a refund of the Group B member's Plan B and Group B contributions, resulting in a total cancellation ~~[an appropriate loss]~~ of pension service. Subject to Subsection (k) of this section, if a Group B member's *designee* ~~[heirs or estate]~~ fails to apply for a refund of the Group B and Plan B member's contributions within the three-year period described by this subsection, the *designee forfeits* ~~[heirs and the estate forfeit]~~ any right to the contributions, and the total amount of the Plan B and Group B contributions made by the Group B member will remain in the fund.

(f) *Subject to Subsections (g) and (h) of this section, [H] a Group B member, other than a Group B member who elects or has elected to receive a Group A benefit or a benefit determined under the old plan or Plan A, who* ~~[with five or more years of pension service]~~ either voluntarily or involuntarily leaves active service *with five or more years of pension service* ~~[, the person]~~ is entitled to:

(1) *subject to Subsection (f-1) of this section,* have the total amount of the person's Plan B and Group B contributions to the fund refunded in accordance with Subsection (a) of this section, which results in a loss of all of the person's accrued pension service; or

(2) *if the Group B member first entered active service before January 1, 1999,* elect to take a refund of less than the total amount of the person's Plan B and Group B contributions while leaving a sufficient amount to retain pension service amounting to five or more years.

(f-1) A Group B member who elects to receive a refund under Subsection (f)(1) of this section and any person who would otherwise take by, through, or under the member is not entitled to any benefits from the pension system.

(g) If a Group B member elects a refund of a portion of the person's contributions under Subsection (f)(2) of this section, the amount of the refund shall equal the total amount of the person's Plan B and Group B annual contributions, without interest, for each full year of pension service canceled ~~[cancelled]~~, computed based on the earliest contributions made.

(h) A ~~[former]~~ Group B member who first entered active service on or after January 1, 1999, is entitled to have the total amount of the person's Group B contributions refunded under Subsection (a) of this section in accordance with Subsection (f)(1) of this section, but may not receive a refund of less than the total amount in accordance with Subsection (f)(2) of this section.

(h-1) A Group B member who leaves active service and later returns to active service is permitted to repay to the fund any previously withdrawn employee contributions and receive pension service in accordance with Section 5.07(d) of this article as a Group B member to the extent that ~~[if]~~ before again leaving active service, the Group B member repays ~~[completely]~~ to the fund the previously withdrawn contributions with interest, calculated at the interest rate from time to time used in the pension system's actuarial rate of return assumptions, compounded annually, on the previously withdrawn contributions ~~[for the period from the date the contributions were withdrawn until the date the principal and accrued interest are repaid in full]~~.

(j) On the 58th ~~[50th]~~ anniversary of the birth of a Group B member described by Subsection (d) or (e) of this section, or on the board's receipt of notice of the death of the Group B member, the board shall, by registered or certified mail, return receipt requested, attempt to notify the Group B member or *designee* ~~[the member's heirs or estate]~~, as applicable, of the status of the person's ~~[their]~~ entitlement to a refund of contributions from the fund.

(k) A Group B member or *designee* described by Subsection (d) or (e) of this section ~~[or the heirs or estate of the Group B member]~~ shall have the person's ~~[their]~~ right, title, interest, or claim to a refund of the Group B member's contributions reinstated only on the board's grant of their written request for a reinstatement and refund. The board's decision shall be based on a uniform and nondiscriminatory basis ~~[policy that it shall, from time to time, adopt]~~.

SECTION 1.16. Section 4.06(c), Article 6243a-1, Revised Statutes, is amended to read as follows:

(c) The authority of the board to make a custody account or master trust agreement is supplementary to its authority to make an investment management contract. Allocation of assets to a custody account or master trust shall be coordinated by the *executive director* ~~[administrator]~~, as authorized by the board, and the bank designated as custodian or master trustee for the assets.

SECTION 1.17. Section 4.07, Article 6243a-1, Revised Statutes, is amended by amending Subsections (a), (d), and (g) and adding Subsection (h) to read as follows:

(a) *Subject to Section 4.071 of this article, if [H] the board determines that there is in the fund a surplus exceeding a reasonably safe amount to take care of current demands on the pension system, the board may invest or direct the investment of the surplus for the sole benefit of the pension system.*

(d) The board also has the authority to contract for professional investment management services. Any contract that the board makes with an investment manager shall set forth the board's investment policies and guidelines ~~[of the board for the use of standard rating services and shall include specific criteria for determining the quality of investments]~~. A professional investment management service shall receive such compensation as may be determined by the board in accordance with Section 4.01 of this article.

(g) A ~~[No investment manager, other than a]~~ bank or trust company that has custody

and trustee powers and a contract with the board to provide assistance in making investments[;] shall be the custodian or master trustee of any of the securities or other assets of the fund. Pursuant to Section 4.06 of this article, the board may designate a bank to serve as custodian or master trustee, or subcustodian or submaster trustee, to perform the customary duty of safekeeping as well as duties incident to the execution of transactions. As the demands of the pension system require, the board shall withdraw from the custodian or master trustee money previously considered surplus in excess of current cash and proceeds from the sale of investments. The money may without distinction be used for the payment of benefits pursuant to each of the plans within the pension system and for other uses authorized by this article and approved by the board.

(h) *The board through policy shall establish an investment advisory committee composed of trustees and outside investment professionals to review investment related matters as prescribed by the board and make recommendations to the board. A majority of the members of the committee established under this subsection must be outside investment professionals.*

SECTION 1.18. Part 4, Article 6243a-1, Revised Statutes, is amended by adding Section 4.071 to read as follows:

Sec. 4.071. BOARD APPROVAL OF CERTAIN ALTERNATIVE INVESTMENTS.

(a) *The executive director, an investment manager, a provider of professional investment management services or professional advisory services, or any other person delegated authority to invest or reinvest pension system assets under this article may not invest pension system assets in a single alternative investment unless the board votes to approve the investment by at least a two-thirds vote of all the trustees.*

(b) *The board may adopt rules necessary to implement this section.*

SECTION 1.19. Section 4.08, Article 6243a-1, Revised Statutes, is amended by adding Subsection (c) to read as follows:

(c) *On written request by the city, the executive director shall make available to the city's actuary or auditor the information and documents provided to or used by the pension system's actuary or auditor in conducting an actuarial valuation under this article or preparing any other document prepared under this article.*

SECTION 1.20. Section 4.09, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 4.09. REWARDS, DONATIONS, AND CONTRIBUTIONS. Any reward, donation, or contribution given to any member as payment or gratuity for service performed in the line of duty shall be turned over to the chief of the member's department, who shall, in turn, forward the reward, donation, or contribution to the *executive director* [~~administrator~~] of the pension system for deposit in the fund.

SECTION 1.21. Section 5.01, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 5.01. MEMBERSHIP IN COMBINED PENSION PLAN. (a) *Except as provided by Subsection (a-1) of this section, the* [The] *membership of the combined pension plan is composed of the following persons:*

(1) Group A members:

(A) police officers or fire fighters who are on active service and who as of February 28, 1973, had filed a written statement with the pension system of their desire to participate in either the old plan or Plan A;

(B) police officers and fire fighters who are on active service *and* [;] who were employed and receiving compensation from the city as a police officer or a fire fighter before March 1, 1973, and who made contributions to either the old plan or Plan A attributable to any period of employment before March 1, 1973; and

(C) except as provided by Subsection (b) of this section, persons who elect to become Group A members under that subsection; and

(2) Group B members:

(A) police officers and fire fighters who are on active service *and who* [;] were formerly members of either the old plan or Plan A[;] and *who*, as of April 30, 1973, had filed a written statement with the pension system of their desire to participate in Plan B;

(B) police officers and fire fighters who are on active service and who on or after March 1, 1973, and before January 1, 1993, became members of Plan B;

(C) as a condition of employment, any police *officer* [office] or fire fighter who is initially employed as a police officer or a fire fighter by the city on or after January 1, 1993;

(D) as a condition of return to active service and except as provided by Subsection (b) of this section, former members of the old plan or Plan A who left active service before March 1, 1973;

(E) as a condition of return to active service and except as provided by Subsection (c) of this section, former Group B members *who are no longer on active service*, whether or not the persons were ever a member of the old plan, Plan A, or the combined pension plan;

(F) Group A members who are on active service and meet the requirements and make an election under Subsection (d) of this section; and

(G) persons who are on active service and make an election under Subsection (e) of this section.

(a-1) *Group A or Group B members do not include any employee of the city who is:*

(1) *required by ordinance or who elects, in accordance with an ordinance, to participate in an alternative benefit plan established under Section 3.01(j-1)(2) of this article based on an evaluation under Section 3.01(j-5)(2) of this article; or*

(2) *required by ordinance to participate in an alternative benefit plan established under Section 810.002, Government Code.*

(b) A person who has received an old plan, Plan A, or combined pension plan retirement or disability pension on or after March 1, 1973, may, if the person returns to active service, elect to participate as a Group A or Group B member by filing a written application for membership with the *executive director* [administrator] not later than 60 days after the date of return to active service. ~~[As a condition of either Group A or Group B membership, the board may require the person to undergo a physical examination and be certified by the health director as being capable of performing the duties to which the person will be assigned.]~~ If the person *described by this subsection* does not elect to become a Group A or Group B member, the person shall on leaving active service receive a retirement pension in an amount that is unadjusted for the period of return to active service if the person meets all of the requirements of Group A membership.

(c) A Group B pensioner who was never a member of the old plan, Plan A, or the combined pension plan before January 1, 1993, may, if the person returns to active service, elect to become a Group B member by filing a written application for membership with the *executive director* [administrator] not later than 60 days after the date of return to active service. ~~[As a condition of Group B membership, the board may require the pensioner to undergo a physical examination and be certified by the health director as being capable of performing the duties to which the person will be assigned.]~~ If the person *described by this subsection* does not elect to again become a Group B member, on leaving active service, if the person meets all applicable requirements of this article, the person shall receive benefits in an amount equal to the amount the person was receiving as of the day before the day the person returned to active service, and the person's base pension shall be the same as the base pension originally computed before the return to active service.

(d) A person who is on active service and is a Group A member may, *before the person participates in DROP*, irrevocably elect to become a Group B member by filing a written application with the *executive director* [administrator]. On and after the filing of the application, the Group A member shall make contributions to the fund at the rate applicable to Group B members. However, the contributions do not, by themselves, *estab-*

lish ~~[constitute]~~ Group B membership. Group B membership is contingent on the satisfaction of the following conditions:

(1) *the* ~~[The]~~ person must, *before the person elects to participate in DROP*, pay an amount to the fund equal to the difference between the contributions the person would have made to the fund had the person been a Group B member for the entire period the person could otherwise have been a Group B member before making application for membership and the contributions the person actually made during that period, plus interest calculated in accordance with procedures adopted by the board from time to time; *and* ~~[-]~~

(2) *the* ~~[The]~~ payments described by this subsection must be completed before *the earlier of* the date on which the person *begins participation in DROP* or leaves active service in accordance with procedures adopted by the board from time to time.

(d-1) If the fund does not receive payment under Subsection (d)(1) of this section by *the* ~~[that]~~ date prescribed by Subsection (d)(2) of this section, all payments made under Subsection (d)(1) of this section ~~[of this type]~~, as well as those contribution amounts paid by the person after the person's application for Group B membership that are in excess of the Group A member contribution rate, shall be returned *without accrued interest* to the person, or in the event of the person's death to the person's *designee* ~~[surviving spouse, children, or estate]~~, as applicable.

(e) A person who is on active service and has never been a member of any plan within the pension system may elect to become a Group B member on a prospective basis by filing a written application for membership with the *executive director* ~~[administrator]~~.

SECTION 1.22. Sections 5.02(a), (d), (e), (h), and (i), Article 6243a-1, Revised Statutes, are amended to read as follows:

(a) The effective date of Group B membership for *a person who becomes a Group B member under* ~~[persons described by]~~ Section 5.01(a)(2)(A) or (B) of this article is *the date the Group B member first became a member of Plan B* ~~[January 1, 1993]~~.

(d) The effective date of Group B membership for *a person* ~~[former Group B member]~~ who again becomes a Group B member and is described by Section 5.01(a)(2)(E) of this article is the person's original effective date of Group B membership, adjusted for any period for which ~~[that]~~ the person was not on active service or ~~[-, if the person]~~ has ~~[not]~~ withdrawn some, but not all, contributions to the fund pursuant to Section 4.04 of this article. If, however, the person *withdraws* ~~[former Group B member has withdrawn]~~ all contributions to the fund in accordance with Section 4.04 of this article, and the person does not replace the previously withdrawn contributions together with interest as provided by Section 4.04(h-1) ~~[4.04(h)]~~ of this article, the effective date of the person's membership is the date of return to active service.

(e) The effective date of membership for a person who becomes a Group B member pursuant to Section 5.01(b) of this article is the date *on which* written application for the membership is filed with the *executive director* ~~[administrator]~~. The effective date of membership for a person who becomes a Group A member pursuant to Section 5.01(b) of this article is the person's original effective date of membership in the old plan, Plan A, or the combined pension plan, whichever is applicable.

(h) A person described by Subsection (a), (c), (d), (e), (f), or (g) of this section shall be given full pension service for the time the person was a contributing member of the old plan, Plan A, the combined pension plan, and Plan B, and the pension service shall be counted as if it had been earned while a Group B member. Neither the length of time persons described by Subsection (a), (c), (d), (e), (f), or (g) of this section received a retirement or disability pension, whether under the old plan, Plan A, the combined pension plan or Plan B, nor the amount of any benefits paid to the person shall have any effect on the pension service earned by the person. No pension service may be earned while on service retirement or disability retirement, or when the person was not on active service. Except as provided by Sections 5.08 ~~[5.02]~~ and 5.09 of this article, a person described by Subsection (a), (c), (d), (e), (f), or (g) of this section may not be allowed to contribute to the fund in order to receive pension service for the time the person was not on active service, regardless of whether the person was actually receiving a pension.

(i) The effective date of Group B membership for a person who becomes a Group B member pursuant to Section 5.01(e) of this article is the date on which written application for Group B membership is filed with the *executive director* ~~[administrator]~~.

SECTION 1.23. Section 5.03, Article 6243a-1, Revised Statutes, is amended by amending Subsections (c) and (d) and adding Subsection (c-1) to read as follows:

(c) A Group B member *who is on active service and* ~~[or former Group B member who also]~~ was a former contributing member of either the old plan or Plan A may elect, when applying for either a retirement or disability pension if applicable, to terminate membership and receive a Group A retirement or disability pension under the applicable provisions of this article, if the Group B member's application for retirement or disability pension is granted by the board.

(c-1) A Group B member *who is not on active service and was a former contributing member of either the old plan or Plan A may elect, when applying for a retirement pension, to terminate membership and receive a Group A retirement pension under the applicable provisions of this article, if the Group B member's application for retirement pension is granted by the board.*

(d) If a Group B member ~~[or former Group B member]~~ described by Subsection (c) or (c-1) of this section has elected and been granted a Group A retirement or disability pension under the applicable provisions of this article, the person is entitled to a reimbursement from the fund. The reimbursement shall be equal to that portion of the person's contributions to the fund, without interest, from the person's effective date of Group B membership until the time the person left active service[;] that is in excess of the total amount the person would have contributed as a Group A member or as a member of the old plan or Plan A for the same period. A Group B member ~~[or former Group B member]~~ desiring a refund of excess contributions must make written application for the refund with the *executive director* ~~[administrator]~~ within three years after the date the person's Group A retirement or disability pension, *whichever is applicable*, begins, *otherwise, the person will* ~~[or]~~ lose all right, title, interest, or claim to the refund until such time as the board grants the refund in response to the person's written request. The refund shall be made as soon as practicable after written application is filed with the *executive director* ~~[administrator]~~.

SECTION 1.24. Section 5.04, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 5.04. GROUP B MEMBERSHIP MAY BE DECLARED INACTIVE. (a) *Except as provided by Subsection (d)(1) of this section, if* [H] a Group B member with less than five years of pension service either voluntarily or involuntarily leaves active service, the person's Group B membership remains active as long as the person has not withdrawn the person's contributions pursuant to Section 4.04 of this article.

(b) *Except as provided by Subsection (d)(2) of this section, if* [H] a Group B member with five or more years of pension service either voluntarily or involuntarily leaves active service, the person's Group B membership remains active as long as the person has not withdrawn the person's entire contributions pursuant to Section 4.04 of this article.

(c) *Except as provided by Subsection (d)(3) of this section, if* [H] the board receives valid information that a Group B primary party has died, ~~[leaving one or more heirs;]~~ the board shall, *by registered or certified mail, return receipt requested*, attempt to notify:

(1) the qualified survivors ~~[heirs]~~ of the primary party of the procedures for applying and qualifying for death ~~[survivor]~~ benefits under Section 6.06, 6.061, 6.062, or 6.063 of this article; or

(2) *if the primary party does not have any qualified survivors, the primary party's designee of the procedures for applying for* ~~[or]~~ a refund of the ~~[Group B]~~ primary party's contributions, if applicable, *in accordance with Section 4.04 of this article.*

(d)(1) Subject to the provisions of Subdivision (5)(A) of this subsection, the membership of a Group B member described by Subsection (a) of this section shall be declared inactive and all of the person's accrued pension service voided if the person does not return to active service within three years after the date of ~~[receiving]~~ the notice described by Subdivision (4) of this subsection.

(2) Subject to the provisions of Subdivision (5)(B) of this subsection, the membership of a Group B member described by Subsection (b) of this section shall be declared inactive and all of the person's accrued pension service voided if the person does not file an application for a Group B retirement pension with the board within three years after the date of [receiving] the notice described by Subdivision (4) of this subsection.

(3) Subject to the provisions of Subdivision (5)(C) of this subsection, *if a primary party described by Subsection (c) of this section:*

(A) *does not have any qualified survivors, the designee has* ~~[the heirs or estate of a deceased primary party described by Subsection (c) of this section have]~~ no right, title, interest, or claim for ~~[benefits or]~~ a refund of the primary party's contributions to the fund~~;~~ if the designee does not file an application for the primary party's contributions within three years after the date of the notice described in Subsection (c) of this section; or

(B) *has qualified survivors, the qualified survivors have no right, title, interest, or claim to* ~~[heirs or the estate, whichever is applicable, fails to file an application for]~~ the primary party's death benefits *if the qualified survivor does not file an application for the benefits* ~~[or contributions]~~ within three years after the date of [receiving] the notice described in Subsection (c) ~~[by Subdivision (4)]~~ of this section ~~[subsection]~~.

(4) On the 58th ~~[50th]~~ anniversary of the birth of a Group B member described by Subsection (a) or (b) of this section ~~[or on the board's receipt of notice of the death of a primary party described by Subsection (c) of this section]~~, the board shall, by registered or certified mail, return receipt requested, attempt to notify:

(A) the ~~[Group B]~~ member ~~[or the heirs or estate of a primary party, whichever is applicable]~~, of the status of the member's ~~[their]~~ entitlement to benefits or contributions from the fund; or

(B) *if the board receives valid information that the member has died, the qualified survivors of the deceased person or, if none exists, the designee of the deceased person.*

(5)(A) A Group B member described by Subdivision (1) of this subsection shall have the person's Group B membership and pension service reinstated on the person's return to active service.

(B) A Group B member described by Subdivision (2) of this subsection shall have the person's Group B membership and pension service reinstated on the person's return to active service or on the grant of the person's written request to the board of the person's desire to apply for a Group B ~~[service]~~ retirement pension under Section 6.02 of this article ~~[benefit]~~.

(C) A primary party's qualified survivors or designee, as appropriate, ~~[The heirs or estate of a primary party]~~ described by Subdivision (3) of this subsection shall have their right, title, interest, or claim to the primary party's refund of the party's contributions reinstated on the board's grant of their written request ~~[for the reinstatement and refund]~~. ~~[The board's decision shall be based on a uniform and nondiscriminatory policy that it shall, from time to time, adopt.]~~

SECTION 1.25. Section 5.05, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 5.05. PENSION SERVICE. (a) *Subject to Subsection (d) of this section and except as provided by Subsection (e) of this section, a* [A] member shall receive pension service for the time, computed in years and fractional years for months and days, completed as a member of the combined pension plan, the old plan, Plan A, or Plan B.

(b) A member who elects to pay contributions for time spent on military leave, authorized non-uniformed leave of absence, or for an apprenticeship or probationary period, or for any other reason provided for by this article may ~~[not]~~ receive ~~[any]~~ pension service for ~~[any part of]~~ the time for which the member is contributing *only to the extent provided under Section 5.07(d), 5.08, or 5.09 of this article* ~~[until the entire amount due the fund for the entire period involved has been paid as if the service were performed as a member]~~.

(c) If a member, either voluntarily or involuntarily, leaves active service and later

returns to active service, the person shall receive full pension service for the period of the person's original membership, if the person did not withdraw the person's contributions pursuant to Section 4.04 of this article. If, however, the member had withdrawn the person's contributions and *did* ~~does~~ not replace the previously withdrawn contributions ~~[with interest]~~ as required by Section 4.04 of this article, the member ~~[person]~~ forfeits any pension service *attributable to any period of time for which the respective contributions were not repaid* ~~[accrued while a member before the date of the person's return to active service]~~.

(d) *If a member is assigned, for any period, to a job-sharing program or any similar work schedule that is considered by the member's department to be less than a full-time work schedule, the member's pension service is determined by multiplying the pension service that could have been earned for full-time work during the period by a fraction, the numerator of which is the number of hours the member actually worked during the period and the denominator of which is the number of hours the member would have worked during the period if the member had been working a full-time work schedule. This proration may not affect the computation of pension service for a member during any period the member is on leave:*

- (1) *because of an illness or injury; or*
- (2) *receiving periodic payments of workers' compensation.*

(e) *Notwithstanding any other provision in this section, a member may not receive pension service attributable to nonqualified service to the extent the pension service would result in either more than five years of permissive service attributable to nonqualified service being taken into account, or any permissive service being taken into account before the member has completed at least five years of active service. In this subsection, "permissive service" and "nonqualified service" have the meanings described by Section 415(n)(3) of the code.*

SECTION 1.26. Sections 5.06, 5.07, 5.08, and 5.09, Article 6243a-1, Revised Statutes, are amended to read as follows:

Sec. 5.06. VESTED RIGHTS OF GROUP B MEMBERS. (a) If a Group B member accrues five years of pension service, whether the pension service is accrued while a Group B member or while a member of the old plan, Plan B, Plan A, the combined pension plan, or a combination of the plans, the Group B member has vested rights and is eligible to apply for a retirement pension in accordance with Section 6.02 of this article.

(b) If a Group B member has vested rights as determined under Subsection (a) of this section, and the Group B member either voluntarily or involuntarily leaves active service before becoming eligible to receive any benefits under Section 6.02 of this article, the person shall be provided with a letter approved by the board and signed by the *executive director* ~~administrator~~ that, barring *unrepaid refunds*, clerical error, miscalculation, or other error, is incontestable and shall state:

- (1) the total amount of pension service the Group B member had accrued until the date the person left active service;
- (2) the total amount of contributions the Group B member made under the terms of Plan B and the combined pension plan; and
- (3) the monthly retirement pension due the Group B member at age 58 [50].

Sec. 5.07. PURCHASE OF PENSION SERVICE BY GROUP B MEMBERS. (a) A Group B member who *is on active service and* has previously elected not to become a contributing member of the old plan or ~~[and]~~ Plan A may purchase pension service from the fund for that period during which the member performed active service with either department until the effective date of the member's Group B membership. No pension service may be given to the Group B member *except to the extent that* ~~[until]~~ payment is made for the ~~[entire period described by this subsection, and no]~~ pension service in accordance with Subsection (d) of this section ~~[may be purchased for any period that is of greater or lesser length]~~.

(b) Payment for the purchase of pension service under Subsection (a) of this section

shall be equal to the amount of contributions the Group B member would have made to the old plan and Plan A had the member been a contributing member of either of the plans during the period for which the pension service is being purchased ~~[described by Subsection (a) of this section]~~, plus interest calculated in accordance with procedures adopted by the board from time to time.

(c) *Subject to Subsection (d) of this section, a [A] Group B member who is on active service may repay the fund all or a portion of the employee contributions withdrawn by an alternate payee pursuant to the terms of a qualified domestic relations order [and receive pension service as a Group B member attributable to the contributions, if the Group B member repays completely to the fund the withdrawn contributions] with interest, calculated at the interest rate from time to time used in the pension system's actuarial rate of return assumptions, compounded annually, on the contributions for the period from the date the contributions were withdrawn until the date the principal and accrued interest are repaid, and receive pension service as a Group B member, in accordance with Subsection (d) of this section, for the period for which the contributions and interest were paid [in full].*

(d) ~~[No pension service may be given to a Group B member under Subsection (b) or (c) of this section until the entire amount described by Subsection (b) or (c) has been paid to the fund.]~~ If payment of the entire amount of pension service a member is entitled to under Subsection (a) or (c) of this section or under Section 4.04(h-1) of this article is not completed by the earlier of the date the Group B member begins participation in DROP or the date the member ~~[is not completed by the date the Group B member]~~ leaves active service, pension service will be provided only for the number of full years of pension service that the contributions and interest paid under those provisions will purchase, computed based on the most recent years for which the member was entitled to purchase pension service. Except for pension service that is picked up by the city under the authority of Section 414(h)(2) of the code, a fractional year of pension service may be purchased only if less than a full year of pension service is available for purchase.

(e) *The amounts paid but insufficient to purchase one or more whole years of pension service that remain available for purchase, including any interest paid by the Group B member, must be returned to the Group B member or, if the Group B member has died, to the Group B member's designee, without any accrued interest on the returned money.*

(f) *Notwithstanding any other provision of this section, any amounts that have been picked up and paid by the city may not be paid to a member or designee, and the member shall be given credit for all years, and fractions of years, of pension service that can be purchased with the picked-up contributions [all partial payments shall be returned to the Group B member or, if the Group B member has died, to the member's heirs or estate, whichever is applicable].*

Sec. 5.08. MEMBERS IN UNIFORMED ~~[ARMED]~~ SERVICES. (a) *In this section, "service in the uniformed services" has the meaning assigned by the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), as amended.*

(a-1) *A member who is reemployed by the city after an absence due to service in the uniformed services shall receive contributions, benefits, and pension service that are no less favorable than those required by Section 414(u) of the code in accordance with the procedure described by Subsection (c) of this section [may receive pension service for time spent away from either department while on active duty in any of the military services of the United States, including service in any state or National Guard or any reserve component of any military service in accordance with the military leave provided by this section].*

(b) *To the extent a provision of this section that was in effect before November 25, 1996, would provide a member who was on active service with the pension system before November 25, 1996, with greater rights, the prior provision of this section applies [Any member inducted into the armed forces as a draftee must reapply for reinstatement with the member's prior department within 90 days after the date of honorable discharge or separation from military service. On such reinstatement, the member may elect to repay*

the member's contributions at any time under the procedure described by Subsection (h) of this section].

(c) *Payment for credit for pension service under this section* [Any member enlisting in the armed forces, other than as a reservist, whose military service between June 24, 1948, and August 1, 1961, did not exceed four years, or whose military service began after August 1, 1961, and did not exceed five years if the fifth year is at the request and convenience of the federal government, and who was honorably discharged or separated from service is guaranteed, under the provisions of coverage described by this subsection, the right to restore pension service under the procedure described by Subsection (h) of this section. The four- and five-year leaves permitted by this subsection apply to all of a member's employment with the city. An enlistment plus any number of reenlistments may not exceed the four- or five-year limitations stated above.

(d) Any member ordered to an initial period of active duty for training in a reserve component of not less than 12 consecutive weeks is entitled to restore pension service for the period absent from the member's department, if the member returns to the member's department within 31 days after the date of honorable discharge or separation from duty in the reserve unit.

(e) Any member serving in a reserve component, voluntarily or involuntarily, may remain on military leave for four years, which may be extended for periods when the President of the United States calls the reserve unit into active duty. The service extension for members joining a reserve unit voluntarily is available only when the additional service is at the request and for the convenience of the federal government. Any member returning to the member's department under this provision must report back to work within the time specified to the member by the department, giving due regard for travel time and hospitalization, if required. Any inquiry into the validity of orders extending terms of reservist active duty for training will be referred to the Department of Labor's Office of Veterans' Employment and Training.

(f) Any member on military leave for short periods of authorized training, such as two-week encampments, are treated as on leave with pay for up to 15 working days in any one calendar year, during which time pension service automatically accrues. Leave in excess of 15 days will be treated as described by Subsection (e) of this section.

(g) With the exception of those circumstances described by Subsection (f) of this section, the city is not required to match contributions made by members under the terms of this section.

(h) *Repayment* shall be made in accordance with Section 5.07 of this article and a [the procedure set forth in any] uniform and nondiscriminatory [military leave and payment] procedure adopted by the board [and in effect from time to time].

Sec. 5.09. *NON-UNIFORMED* [NONMILITARY] LEAVE OF ABSENCE. (a) An "authorized non-uniformed leave of absence" means any leave of absence that meets one of the following requirements [conditions]:

(1) the leave of absence was unpaid and granted by the member's department in accordance with the federal Family and Medical Leave Act of 1993 (29 U.S.C. Section 2601 et seq.); or

(2) the leave of absence was unpaid and was [must be] an official leave authorized and certified by the chief of the member's [either] department as being beneficial to [and

(2) the leave of absence must be for the purpose of benefitting] the department.

(b) Subject to the requirements of this section and any procedures adopted by the board, a [A] member may receive pension service for time spent away from the member's [either] department on an authorized non-uniformed [nonmilitary] leave of absence. To receive pension service under this section [for a nonmilitary leave of absence, the following conditions must be met:

(1) before the date the member's leave of absence is to begin], the member must file with the executive director [administrator] a written application to pay to the fund both:

(1) the member contributions the member would have made to the fund had the member

remained on active service and had there been no change in the member's position or hours of work during the period of the authorized non-uniformed leave of absence; and

(2) ~~the contributions the city would have made to the fund on the member's behalf (any contributions that will accrue during the member's leave as set forth in Subdivisions (2) and (3) of this subsection;~~

~~[(2) the member must agree to pay into the fund the amount the member would have contributed had the member remained on active service, the amount to be based on the computation pay the member would have normally received had there been no change in the member's position during the period of leave;~~

~~[(3) the member must agree to pay into the fund an amount equal to the amount the city would have contributed computed on the basis of total wages and salary the member would normally have received] had the member remained on active service and had there been no change in the member's position or hours of work during the period of the authorized non-uniformed leave of absence.~~

(b-1) Contributions made under Subsection (b)(2) of this section may not be refunded to the member.

(b-2) The written application described by Subsection (b) of this section must be filed before the member's authorized non-uniformed leave of absence begins, unless the pension system determines that it would not be reasonable to expect the member to file the application before the authorized non-uniformed leave of absence begins, in which case the application must be filed as soon as circumstances permit, as determined by the pension system. ~~[leave, the payment to represent the total amount that would have been contributed by the city on the member's behalf had the member remained on active service and paid in addition to the amount the member must contribute as set forth in Subdivision (2) of this subsection;]~~

(b-3) To receive pension service under this section, the following additional conditions must also be met:

(1) ~~[(4)]~~ if the member's contribution rate, the city's contribution rate, or both the member's and city's contribution rates change before the end of the member's authorized non-uniformed leave of absence ~~[changes as provided by Section 4.02 of this article]~~, the percentage ~~[of total wages and salary]~~ required to be paid by the member also changes, so that the amount paid by the member in accordance with this section always equals the amount that would have been contributed by the member, and by the city on the member's behalf had the member remained on active service~~], and in no event is the city required to pay into the fund any contributions that would have been made on behalf of a member had the member remained on active service during the period of an authorized leave of absence];~~

(2) ~~[(5)]~~ payment of contributions as set forth in Subsection (b) of this section ~~[Subdivisions (3) and (4) of this subsection]~~ shall begin coincident with the beginning of the applicable authorized non-uniformed leave of absence and shall be made monthly to the executive director ~~[administrator]~~ for deposit in the fund, unless the board authorizes the deferment of the payments, in which case the payments must include interest calculated in accordance with Subsection (b-4) of this section ~~[until the member has returned to active service];~~

(3) no pension service will be granted to the member until the member returns to active service, and if the member does not return to active service, the contributions paid, including any interest paid, will be returned to the member except as provided by Subsection (c) of this section;

(4) if the board authorizes the deferment of the payments under Subdivision (2) of this subsection, the payment must ~~[may]~~ be made either by authorizing the deduction of pro rata portions of the total amount due from the member's salary over a one-year period, or by cash payment made to the executive director ~~[administrator]~~ within one year after the date of the member's return to active service, except that the board may approve a longer period for making the payment if it finds that the one-year limit would work a financial hardship on the member;

(5) ~~[(6)]~~ the member must return to active service within 90 days after the date the member's authorized *non-uniformed leave of absence* expires, or if the member's authorized *non-uniformed leave of absence* does not have a fixed expiration date, within a reasonable time to be determined by the board, or the member forfeits the right to pay for the leave time; and

(6) ~~[(7)]~~ no member may ever be allowed to pay leave of absence contributions under this section for any time in excess of the time actually spent on an authorized *non-uniformed leave of absence*.

(b-4) *For purposes of Subsection (b-3)(2) of this section, interest is calculated from the date the member's payment was first due, at the interest rate from time to time used in the pension system's actuarial rate of return assumptions, compounded annually until the date the principal and accrued interest are repaid in full.*

(c)(1) If a member of the combined pension plan is disabled or dies while on an authorized *non-uniformed leave of absence*, the member or the member's *designee* is ~~heirs are~~ entitled to ~~either~~ a refund of contributions pursuant to Section 4.04 of this article or the member or the member's qualified survivors are entitled to benefits under the provisions of this article, to the extent applicable.

(2) A member who is disabled or dies while on an *authorized non-uniformed leave of absence* pursuant to this section may receive no pension service for any portion of the period of the leave,~~;~~ except that if the member had, before the member's disability or death, paid for contributions while on an *authorized non-uniformed leave of absence* in accordance with ~~Subsection (a) of~~ this section, the member shall receive pension service for the leave time actually paid for at the time of the member's disability or death. ~~The~~ ~~;~~ ~~but the~~ member may receive no pension service for any portion of the period of leave for which contributions ~~were~~ ~~have~~ not ~~been~~ paid to the *executive director* ~~administrator~~ for deposit in the fund.

SECTION 1.27. Section 6.01, Article 6243a-1, Revised Statutes, is amended by amending Subsections (a), (b), (d), (e), (f), (g), and (h) and adding Subsections (a-1) and (a-2) to read as follows:

(a) A Group A member ~~[or former Group A member]~~ must have 20 years of pension service to be eligible for a Group A retirement pension under this section. A member's *benefit election* ~~[application]~~ under this section, once *approved* ~~[made]~~, is irrevocable.

(a-1) If a Group A pensioner returns to active service as a police officer or fire fighter with the city, the person's Group A retirement pension ceases until ~~[the time]~~ that ~~[the]~~ person again leaves active service with the city.

(a-2) *If a Group A pensioner resumes employment with the city in a capacity other than as a police officer or fire fighter, the pensioner's Group A retirement pension continues during the period of employment, except the pensioner may not accrue additional credit for pension service during this period. Additional credit for pension service does not accrue during any period in which a Group A pensioner becomes employed by the city unless the additional credit is attributable to active service as a police officer or fire fighter with the city.*

(b) At age 50 a Group A member ~~[or former Group A member]~~ is eligible to begin drawing a monthly Group A retirement pension. A monthly Group A retirement pension equals 50 percent of the base pay per month, plus 50 percent of any longevity pay the Group A member was receiving at the time the member left active service. Although the number of years used in the computation of longevity pay remains fixed at the *earlier of* the time a Group A member ~~[or former Group A member]~~ leaves active service or *begins participation in DROP*, the monthly rate of longevity pay used in this computation is subject to change in the event of an amendment to the state law governing longevity pay. The monthly Group A retirement pension benefits of Group A pensioners shall be adjusted from time to time in a like manner.

(d) The element of annual retirement pension computed under Subsection (c)(1) of this section is subject to the following limitations:

(1) it shall be prorated for the year in which the pensioner begins receiving a retirement pension;

(2) it shall be payable only to those Group A pensioners who, as [a] Group A *members* [member] on active service, received city service incentive pay and who receive a monthly Group A retirement pension as determined under Subsection (b) of this section on the last day of September of each year; and

(3) it shall be paid to Group A pensioners as long as the city continues to pay city service incentive pay to Group A members on active service.

(4) Notwithstanding Subsections (b) and (c) of this section, a Group A member with a minimum of 20 years of pension service may apply for an actuarially reduced retirement pension to begin no earlier than when the member attains age 45 but before the member attains age 50. The Group A member [~~or a former Group A member~~] who has made an application may receive a retirement pension calculated under Subsections (b) and (c) of this section reduced by two-thirds of one percent per month for each whole calendar month the benefit is payable before the month in which the Group A member [~~or former Group A member~~] attains age 50.

(e) At age 55 a Group A member [~~or former Group A member~~] is eligible to begin drawing a monthly retirement pension computed as follows:

(1)(A) at the rate of three percent of base pay for each year, prorated for fractional years, of pension service, with a maximum of 32 years of pension service, or 96 percent of base pay; or

(B) if the Group A member [~~or former Group A member~~] had 34 or more years of pension service as of April 30, 1990, *then the member's retirement pension is calculated at the rate calculated under the terms of the combined pension plan in effect on April 30, 1990, if the resulting amount would be greater than the amount calculated under Paragraph (A) of this subdivision; plus*

(2) one-half of the longevity pay the Group A member [~~or former Group A member~~] was receiving at the time the person left active service; plus

(3) 1/24th, without subsequent adjustment, of the annualized amount of the city service incentive pay the Group A member [~~or former Group A member~~] received at the time the person left active service.

(f) [~~Notwithstanding Subsection (e) of this section, Group A pensioners payments under Subsection (e)(3) of this section are contingent on the city's continuing payment of city service incentive pay to Group A members on active service.~~] For purposes of Subsection (e) of this section, base pay and longevity pay are the amounts in effect on *the earlier of the date the member begins participation in DROP or the date benefits are to begin*, without subsequent adjustment.

(g) Notwithstanding Subsection (e) of this section, a Group A member [~~or former Group A member~~] with 20 or more years of pension service may apply for an actuarially reduced Group A retirement pension beginning on or after the date the Group A member [~~or former Group A member~~] attains age 50 but before the person attains age 55. The Group A member [~~or former Group A member~~] may receive a retirement pension calculated under Subsection (e) of this section reduced by two-thirds of one percent per month for each whole calendar month the benefit is payable before the month in which the Group A member [~~or former Group A member~~] attains age 55.

(h) Entitlement to the Group A retirement pension described by this section is subject to the following conditions:

(1) a written application must be filed with the *executive director* [administrator];

(2) the grant of a Group A retirement pension by the board must be made at a meeting of the board held during the month the [Group A] retirement pension is to become effective, or as soon after that as *administratively possible*; and

(3) the Group A member must no longer be on active service.

SECTION 1.28. Section 6.02, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 6.02. GROUP B RETIREMENT PENSION. (a) *If a* [A] Group B member [~~or for-~~

~~mer Group B member who~~ has accrued five or more years of pension service, is no longer on active service with the department, has not withdrawn the member's contributions, and otherwise meets the age and pension service requirements under the applicable provision of this section, the member may apply ~~[may make application]~~ for a Group B retirement pension under this section. A member's benefit election application under a provision of this section, once approved, is irrevocable.

(a-1) If a Group B pensioner returns to active service as a police officer or fire fighter with the city, the person's ~~[on reaching 50 years of age, or for an actuarially reduced]~~ Group B retirement pension ceases until that person again leaves active service with the city.

(a-2) If a Group B pensioner resumes employment with the city in a capacity other than as a police officer or fire fighter, the pensioner's Group B retirement pension continues during the period of employment except the pensioner may not accrue additional credit for pension service during this period. Additional credit for pension service does not accrue during any period in which a Group B pensioner becomes employed by the city unless the additional credit is attributable to active service as a police officer or fire fighter with the city ~~[on reaching 45 years of age]~~.

(b) A ~~[former]~~ Group B member who began active service before March 1, 2011, and who has attained at least 50 years of age, or who began active service on or after March 1, 2011, and has attained at least 58 years of age, and who otherwise meets the requirements of Subsection (a) of this section may elect to receive a Group B retirement pension that shall be calculated as follows:

(1) for a member who began active service before March 1, 2011, the member's retirement pension shall be the sum of:

(A) the number of years of pension service before September 1, 2017, prorated for fractional years, times three percent of the average computation pay determined over the 36 consecutive months of pension service in which the Group B member received the highest computation pay; plus

(B) the number of years of pension service on or after September 1, 2017, prorated for fractional years, times the applicable percentage prescribed by Subsection (b-1) of this section of the average computation pay determined over the 60 consecutive months of pension service in which the Group B member received the highest computation pay; or

(2) for a member who began active service on or after March 1, 2011, the member's retirement pension shall be the number of years of pension service, prorated for fractional years, times 2.5 percent of the average computation pay determined over the 60 consecutive months of pension service in which the member received the highest computation pay.

(b-1) For purposes of Subsection (b)(1)(B) of this section, the applicable percentage is based on the age of the Group B member when the member's retirement pension begins as set forth below:

Age of Member When Retirement Pension Begins	Percent
58 and older	2.5%
57	2.4%
56	2.3%
55	2.2%
54	2.1%
53 and younger	2.0%

(b-2) Days during which the member earned no pension service due to a termination of active service or otherwise must be disregarded in determining the 36 or 60 consecutive months of highest computation pay under Subsection (b)(1) or (2) of this section, as appropriate. The pension benefit calculated under Subsection (b) of this section may not exceed the greater of:

(1) 90 percent of the member's average computation pay determined under the applicable subsection; or

(2) ~~the vested and accrued benefit of a member as determined on August 31, 2017. [or Group B pensioner who withdrew any of the person's Plan B or Group B contributions and who on again becoming a Group B member does not replace such previously withdrawn contributions with interest thereon as provided by Section 4.04 of this article must earn at least five years of pension service after the time the person returns to active service to be eligible for a Group B retirement pension.]~~

(c) Except as provided by Subsection (c-2) of this section, ~~[Entitlement to]~~ a Group B member who has either attained at least 45 years of age on September 1, 2017, or who attains at least 53 years of age after September 1, 2017, and who otherwise meets the requirements of Subsection (a) of this section may elect to receive an actuarially reduced Group B retirement pension calculated in accordance with Subsection (c-1) of this section:

(1) not earlier than the member's 45th or 53rd birthday, as applicable; and

(2) not later than the member's 50th or 58th birthday, as applicable.

(c-1) Except as provided by Subsection (c-2) of this section and subject to Section 6.021 of this article, a Group B member who applies for an actuarially reduced Group B retirement pension under Subsection (c) of this section shall receive a pension calculated under Subsection (b) of this section, reduced by two-thirds of one percent per month, for each whole calendar month the benefit is payable before the month in which the member attains:

(1) for members who attained at least 45 years of age on September 1, 2017, 50 years of age; or

(2) for members not described by Subdivision (1) of this subsection who attain at least 53 years of age after September 1, 2017, 58 years of age.

(c-2) Subject to Subsection (d-3) of this section and for purposes of Subsection (c-1) of this section, if a Group B member's pension benefit calculated under Subsection (b) of this section is equal to 90 percent of the member's average computation pay, the member is entitled to a Group B retirement pension under Subsection (c) of this section at 45 or 53 years of age, as applicable, that is not actuarially reduced as provided under Subsection (c-1) of this section ~~[retirement pension as described by Subsection (a) or (b) of this section is subject to the following conditions:~~

~~[(1) written application must be filed with the administrator;~~

~~[(2) the grant of the Group B retirement pension by the board must be made at a meeting of the board held during the month the Group B retirement pension is to become effective, or as soon after that as possible; and~~

~~[(3) the Group B member may no longer be on active service].~~

(d) Except as provided by Subsection (d-2) of this section, a ~~[A]~~ Group B member who has accrued 20 or more years of pension service and has been on active service at any time on or after January 1, 1999, may elect to apply for a Group B retirement pension beginning at any time after the Group B member leaves active service, regardless of age. A Group B member may elect a Group B retirement pension under this subsection as follows:

(1) if the member accrued 20 or more years of pension service on or before September 1, 2017, the member may elect a pension under this subsection that is computed in the same manner as the Group B retirement pension under Subsection (b)(1) of this section except that the percentage set forth below must be used instead of the three percent multiplier prescribed by Subsection (b)(1)(A) of this section:

<i>Age of Member When Retirement Pension Begins</i>	<i>Percent</i>
48 and 49	2.75%
47	2.5%
46	2.25%
45 and younger	2%; and

(2) except as provided by Subsection (d-2) of this section and subject to Section 6.021 of this article, if the member accrued 20 or more years of pension service after September 1, 2017, the member may elect a pension under this subsection computed in the same manner as the Group B retirement pension under Subsection (b)(2) of this section except that the percentage set forth below must be used instead of the 2.5 percent multiplier prescribed by Subsection (b)(2) of this section:

<i>Age of Member When Retirement Pension Begins</i>	<i>Percent</i>
57	2.4%
56	2.3%
55	2.2%
54	2.1%
53 and younger	2.0%

(d-1) A member who elects a pension under Subsection (d) of this section is not entitled to:

- (1) minimum benefits under either Section 6.10A or 6.11 of this article; or
- (2) benefits under Subsection (g) of this section.

(d-2) Subject to Subsection (d-3) of this section and for purposes of Subsection (d) of this section, if a Group B member's pension benefit calculated under Subsection (b) of this section is equal to 90 percent of the member's average computation pay, the member is entitled to a Group B retirement pension under Subsection (d) of this section that is not reduced as provided under Subsection (d)(1) or (2) of this section [retirement pension shall be computed at the rate of three percent of the average computation pay determined over the 60 consecutive months in which the Group B member received the highest computation pay, multiplied by the number of years, prorated for fractional years, of pension service to a maximum of 32 years of pension service or 96 percent of the computation pay as determined under this subsection].

(d-3) For purposes of Subsections (c-2) and (d-2) of this section, a Group B member's pension benefit calculated under Subsection (b) of this section shall be calculated without application of any reduction under Subsection (b-1) of this section.

(e) A [However, a] Group B member or former Group B member with 34 or more years of pension service as of April 30, 1990, is entitled to [shall] receive the greater of a Group B retirement pension calculated under the terms of Plan B as in effect on that date or a Group B retirement pension calculated pursuant to Subsection (b) [(d)] of this section.

[(f) A Group B member, or any former Group B member who was a Group B member as of any date after April 30, 1990, may apply for an actuarially reduced Group B retirement pension beginning no earlier than the person's 45th birthday but before the person's 50th birthday. A Group B member or former Group B member who applies for an actuarially reduced Group B retirement pension beginning on or after the person's 45th birthday shall receive a pension calculated under Subsection (d) of this section, reduced by two-thirds of one percent per month for each whole calendar month the pension would be payable before the month in which the Group B member or former Group B member attains age 50.]

(g) In no event may any Group B member [or former Group B member] who was at any time a Group A member or a contributing member of the old plan or Plan A, and

who satisfied the applicable age and length-of-service requirements of the applicable plan at the time the person left active service, receive a retirement pension in an amount less than the amount the person would be entitled to receive as a Group A member.

(h) *Notwithstanding any other provision of this section, a [A former] Group B member who was not a Group B member on or after January 1, 1993 [May 1, 1990], shall receive a retirement pension calculated under the applicable provisions of Plan B [this plan] as that plan existed [in effect] on the date the member terminated [person left] active service.*

(i) *Entitlement to a Group B retirement pension under Subsection (b), (c), (d), or (e) of this section is subject to the following conditions:*

(1) *a written application must be filed with the executive director;*

(2) *the grant of the Group B retirement pension by the board must be made at a meeting of the board held during the month the retirement pension is to become effective, or as soon after as administratively possible; and*

(3) *the Group B member may no longer be on active service [A former Group B member who was not a Group B member after April 30, 1990, may request an actuarially reduced retirement pension beginning no earlier than the person's 45th birthday but before the person's 50th birthday]. [A former Group B member described by this subsection shall receive a retirement pension under the applicable provisions of Plan B as in effect on the date the person left active service, reduced by two-thirds of one percent per month for each whole calendar month the pension would be payable before the month in which the former Group B member attains age 50.]*

SECTION 1.29. Part 6, Article 6243a-1, Revised Statutes, is amended by adding Sections 6.021 and 6.022 to read as follows:

Sec. 6.021. AUTHORITY TO ADOPT ALTERNATIVE MULTIPLIERS FOR COMPUTATION OF CERTAIN GROUP B BENEFITS. (a) For purposes of Section 6.02(c-1) or (d)(2) of this article, the board by rule may adopt alternative multipliers, including an alternative table prescribing actuarially appropriate multipliers. In adopting rules under this subsection, the board shall designate the date on which the alternative multiplier shall take effect.

(b) Copies of any alternative multipliers adopted under this section must be maintained at the principal office of the pension system and published on the pension system's publicly available Internet website.

Sec. 6.022. AUTHORITY TO REDUCE RETIREMENT AGE. Notwithstanding any other law, the board may reduce the age at which a Group B member is eligible to begin receiving a retirement pension, including an actuarially reduced retirement pension, under Section 6.02 of this article if the board determines that the reduction will not cause the amortization period of the unfunded actuarial accrued liability of the pension system to exceed 25 years, after taking into account the impact of the reduction. A board action under this section may not take effect until the State Pension Review Board reviews the board's determination described by this section.

SECTION 1.30. Section 6.03, Article 6243a-1, Revised Statutes, is amended by amending Subsections (a), (d), (f), and (g) and adding Subsections (k) and (l) to read as follows:

(a) *If a member who is on active service, other than a member participating in DROP, becomes disabled to the extent that the member cannot perform the member's duties with the member's department, the member may apply for a disability pension, subject to [in accordance with] any uniform and nondiscriminatory disability application procedure and recall and review procedure adopted by the board and in effect from time to time.*

(d) *No disability pension may be paid to a member for any disability if the disability was a result of an intentionally self-inflicted injury or a chronic illness resulting from an addiction by the member through a protracted course of [noncoerced] indulgence in alcohol, narcotics, or other substance abuse that was not coerced.*

(f) No disability pension may be paid if the chief of the member's department is able to provide the member with duties that are within the member's physical or mental capabilities, ~~[as long as the board agrees that the duties are within the member's capabilities,]~~ even though the duties are different from the duties the member performed before the disability.

(g) Written application for a disability pension must be filed with the *executive director not later than the 180th day after the date the member leaves active service* ~~[administrator]~~. The application must be accompanied by a recommendation from the health director. This recommendation shall contain a statement indicating whether the member became disabled while the member was on duty or off duty and whether the disability was service-connected or *was not service-connected* ~~[nonservice-connected]~~.

(k) *For purposes of Sections 6.04 and 6.05 of this article and this section:*

(1) *longevity pay and incentive pay are the amounts in effect on the date the benefits are to begin, without subsequent adjustment; and*

(2) *except as provided by Section 6.05(b-1) of this article, base pay is the amount in effect on the date benefits are to begin, without subsequent adjustment.*

(l) *Notwithstanding any other law, Subchapter B, Chapter 607, Government Code, applies to all members without regard to the employing department or job assignment.*

SECTION 1.31. Part 6, Article 6243a-1, Revised Statutes, is amended by adding Section 6.035 to read as follows:

Sec. 6.035. DISABILITY BENEFITS FOR CERTAIN PERSONS IN UNIFORMED SERVICES. (a) *In this section, "uniformed services" has the meaning assigned by the federal Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.).*

(b) *This section applies to a person who was released from the uniformed services after December 17, 2001, under conditions that would have made the person eligible for benefits under Section 414(u) of the code if the person could have returned to active service.*

(c) *If a person subject to this section was unable to return to active service by reason of disability incurred while on a leave of absence due to service in the uniformed services, that person is entitled to a regular disability pension in accordance with Section 6.03 of this article, calculated in accordance with Section 6.04 of this article.*

(d) *Notwithstanding Section 6.03(g) of this article, a written application for a disability pension must be filed not later than the 180th day after the date of the person's release from the uniformed services.*

(e) *A person subject to this section is entitled to receive pension service for the period of service with the uniformed services only to the extent that contributions are made for that period in accordance with this article.*

SECTION 1.32. Section 6.04, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 6.04. CALCULATION OF REGULAR ~~[GROUP A]~~ DISABILITY BENEFITS ~~[PENSION]~~. (a) *Subject to Subsection (g) of this section, if ~~[H]~~ a Group A member's application for a Group A disability pension has been approved by the board pursuant to Section 6.03 of this article, including any procedures adopted under that section, the Group A member may elect to receive a Group A disability pension calculated:*

(1) *in the same manner as the benefit under Sections 6.01(b) and (c) of this article; or*

(2) *under Subsection (c) ~~[(b)]~~ of this section.*

(b) *An election under Subsection (a) of this section, once approved by the board ~~[made]~~, is irrevocable.*

~~[(b) When a Group A member elects to accept a Group A disability pension under this section, it shall be calculated as provided by Subsections (c), (d), and (e) of this section.]~~

(c) *Subject to Subsection (g) of this section, ~~[H]~~ a Group A ~~[member's disability results during the performance of duties with either department, the]~~ member who elects to*

have benefits determined under this subsection is entitled to a monthly disability pension calculated as follows:

(1) at a rate of three percent of base pay for each year, prorated for fractional years, of pension service, with a ~~minimum of 20 years of pension service being deemed credited and a~~ maximum of 32 years of pension service being credited, or 96 percent of base pay ~~[or], except that if the Group A member had 34 or more years of pension service as of April 30, 1990 [May 1, 1990], the member is entitled to [shall]~~ receive the greater of a disability pension calculated under the terms of the combined pension plan in effect on that date or as calculated under this subdivision; plus

(2) one-half of the longevity pay the Group A member was receiving at the time the member left active service; plus

(3) ~~subject to Subsection (d) of this section, 1/24th~~~~[, without subsequent adjustment,]~~ of the annualized amount of city service incentive pay the Group A member received at the time the member left active service.

(c-1) The disability pension calculated under Subsection (c) of this section may not exceed the greater of:

(1) 90 percent of the member's average base pay determined under the applicable subsection; or

(2) the vested and accrued disability pension of the member as determined on August 31, 2017.

~~(d) Payments of the amounts described by [Notwithstanding Subsection (c) of this section, the amount of a disability retirement benefit of a Group A pensioner who is on disability retirement under] Subsection (c)(3) of this section are [is] contingent on the city's continuing payment of city service incentive pay to Group A members on active service. [For purposes of this subsection, base pay and longevity pay are the amounts in effect on the date the benefits are to begin, without subsequent adjustment.]~~

(e) If a Group B [A] member's application for a Group B disability pension has been approved by the board under Section 6.03 of this article, including any procedures adopted under that section, the Group B member may elect to receive a Group B disability pension calculated in the manner described by Subsection (f) or (f-1) of this section, subject to Subsection (g) of this section [disability does not result during the performance of the member's duties with either department, the member is entitled to a monthly disability pension calculated:

~~(1) at a rate of three percent of base pay for each year, prorated for fractional years, of pension service, with a maximum of 32 years of pension service, or 96 percent of base pay, except that if the Group A member had 34 or more years of pension service as of April 30, 1990, the member shall receive the greater of a disability pension calculated under the combined pension plan in effect on that date or as calculated under this subdivision; plus~~

~~(2) one-half of the longevity pay the Group A member was receiving at the time the member left active service; plus~~

~~(3) 1/24th of the annualized amount of city service incentive pay the Group A member received at the time the member left active service, without regard to any subsequent adjustment].~~

(f) Subject to Subsections (f-1), (f-3), and (g) of this section, the disability pension of a Group B member shall be calculated as follows:

(1) for a member who began active service before March 1, 2011, the member's disability pension shall be the sum of:

(A) the member's number of years of pension service earned before September 1, 2017, prorated for fractional years, times three percent of the average computation pay determined over the 36 consecutive months of pension service in which the member received the highest computation pay; plus

(B) the number of years of pension service, including pension service credit imputed

under Section 6.05(c) of this article, earned on or after September 1, 2017, prorated for fractional years, times the applicable percentage prescribed by Section 6.02(b-1) of this article of the average computation pay determined over the 60 consecutive months of pension service in which the member received the highest computation pay; or

(2) for a member who began active service on or after March 1, 2011, the member's disability pension shall be the number of years of pension service, including pension service credit imputed under Section 6.05(c) of this article, prorated for fractional years, times 2.5 percent of the average computation pay determined over the 60 consecutive months of pension service in which the member received the highest computation pay.

(f-1) Notwithstanding Subsection (f) of this section, for a Group B member who had 34 or more years of pension service as of April 30, 1990, the member is entitled to receive the greater of a disability pension calculated under the terms of Plan B in effect on April 30, 1990, or calculated under Subsection (f) of this section.

(f-2) For purposes of Subsections (f) and (f-1) of this section:

(1) any partial year of pension service for a Group B member's first 20 years of pension service is counted as a full year of pension service, if the member was considered by the member's department to have worked a normal full-time schedule at the time of the disability;

(2) if the member has less than 36 or 60 consecutive months of pension service, as applicable, the member's average computation pay will be computed based on the member's entire pension service; and

(3) days during which the member earned no pension service due to a termination of active service or otherwise must be disregarded in determining the 36 or 60 consecutive months of highest computation pay.

(f-3) The disability pension calculated under Subsection (f) or (f-1) of this section may not exceed the greater of:

(1) 90 percent of the member's average computation pay determined under the applicable subsection; or

(2) the vested and accrued disability pension of the member as determined on August 31, 2017 [~~Payments of the amounts described by Subsection (e)(3) of this section are contingent on the city's continuing payment of city service incentive pay to Group A members on active service.~~]

(g) The disability pension calculated in accordance with this section, including both a Group A benefit described by Subsection (a) of this section and a Group B benefit described by Subsection (f) of this section, shall be reduced dollar-for-dollar by any monthly disability compensation benefit received under Section 6.05 of this article. If the monthly disability compensation benefit provided to a member under Section 6.05 of this article equals or exceeds any benefit the member is entitled to under this section or Section 6.01(b) or (c) of this article, the member may not receive the benefit under this section [~~For purposes of Subsection (e)(3) of this section, base pay and longevity pay are the amounts in effect on the date the benefits are to begin, without subsequent adjustment.~~].

SECTION 1.33. The heading to Section 6.05, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 6.05. **COMPENSATION BENEFITS FOR SERVICE-CONNECTED** [~~CALCULATION OF GROUP B~~] **DISABILITY** [~~BENEFITS~~].

SECTION 1.34. Section 6.05, Article 6243a-1, Revised Statutes, is amended by amending Subsections (a), (b), and (c) and adding Subsection (b-1) to read as follows:

(a) If a member leaves active service at any time due to disability and the board determines that the member with the disability became unable to perform the member's duties with the member's department due to an injury or sickness incurred in the performance of the member's duties, the member is entitled to periodic disability compensation benefits in accordance with this section [~~Group B member's application for a Group B disability pension has been approved by the board pursuant to Section 6.03 of this article;~~]

~~including any procedures adopted under that section, the Group B member may, depending on the circumstances, elect to receive a Group B disability pension calculated in the manner described by Subsection (b) or (c) of this section].~~

(b) *Subject to Subsection (b-1), [If] a Group A [B] member whose disability, as determined by the board, was caused by an injury or sickness incurred in the performance of the member's duty shall receive a monthly benefit equal to 60 percent of the member's base pay. For purposes of this subsection, "base pay" is the amount in effect on the date compensation benefits under this section are to begin, without subsequent adjustment.*

~~(b-1) Instead of receiving a periodic disability compensation benefit under Subsection (b) of this section, a Group A member who is entitled to periodic disability compensation benefits under this section may elect, before the benefits begin, to receive those benefits as a monthly benefit equal to 50 percent of the member's base pay adjusted from time to time to reflect changes in base pay that occur after the member began receiving a monthly compensation benefit under this section [becomes disabled during the performance of the member's duties with either department, the member is entitled to a monthly disability pension calculated at a rate of three percent of the average computation pay determined over the 60 consecutive months in which the Group B member received the member's highest computation pay multiplied by the number of years, prorated for fractional years, of the member's pension service with a minimum of 20 years of pension service being deemed credited, or 60 percent of average computation pay determined over the 60 consecutive months in which the Group B member received the member's highest computation pay, except that if the Group B member has less than five years of pension service, the Group B member's average computation pay will be computed based on the member's entire pension service. If a Group B member had 34 or more years of pension service as of April 30, 1990, the Group B member is entitled to receive the greater of a Group B disability pension calculated under the terms of Plan B in effect on that date or calculated pursuant to this subsection].~~

~~(c) A [The Group B disability pension for any] Group B member whose disability, as determined by the board, was caused by an injury or sickness incurred in the performance of the member's duty shall receive a monthly benefit equal to the disability pension under Sections 6.04(f), (f-1), (f-2), and (f-3) of this article except that if the member:~~

~~(1) does not have 20 years of pension service, the member is considered to have 20 years of pension service for the purposes of calculating the disability pension under that section; and~~

~~(2) has less than 36 or 60 consecutive months, as applicable, of employment with the department, the member's average computation pay will be computed based on all the member's computation pay, and days during which the member earned no pension service due to a termination of active service or otherwise must be disregarded in determining either the 36 or 60 consecutive months of highest computation pay [does not result during the performance of the member's duties with either department shall be computed at a rate of three percent of the average computation pay determined over the 60 consecutive months in which the Group B member received the member's highest computation pay multiplied by the number of years, prorated for fractional years, of the member's pension service, except that any partial year of pension service for the first 20 years of pension service shall be counted as a full year of pension service. If the Group B member has less than five years of pension service, the Group B member's average computation pay will be computed based on the member's entire pension service, and if a Group B member had 34 or more years of pension service as of April 30, 1990, the Group B member is entitled to receive the greater of a disability pension calculated under the terms of Plan B in effect on that date or calculated pursuant to this subsection].~~

SECTION 1.35. Section 6.05(d), Article 6243a-1, Revised Statutes, is redesignated as Section 6.055, Article 6243a-1, Revised Statutes, and amended to read as follows:

Sec. 6.055. REDUCTION IN DISABILITY OR COMPENSATION BENEFITS FOR CERTAIN PERSONS. (a) In this section, "earned income" means income earned by a Group B pensioner in the form of wages, salaries, commissions, fees, tips, unemployment

benefits, and other amounts received by virtue of employment or self-employment but paid before any deduction for taxes or insurance. In addition, earned income also includes those amounts contributed on a before-tax basis to any retirement plan or employee health and welfare benefit plan.

(b) ~~[(d)]~~ The board shall require any Group B pensioner who became a member of Plan B or the combined pension plan on or after May 1, 1990, and who is receiving a Group B disability pension under Section 6.04 of this article or a periodic disability compensation under Section 6.05 of this article ~~[in accordance with Subsection (b) or (e) of this section]~~ to provide the board annually, on or before July 1 ~~[May 1]~~ of each year, with a true and complete copy of those portions of the person's federal and, if applicable, state tax return, including appropriate schedules, for the previous calendar year that indicate the person's occupations, *if any*, and earned income for the previous calendar year. *If the pensioner did not file a tax return for the previous calendar year, the board may require other documentation reflecting the pensioner's occupation or earned income that the board determines appropriate.*

(c) *The pension system* ~~[However, the board]~~ may waive the July 1 ~~[May 1]~~ date under Subsection (b) of this section in lieu of one later in the same calendar year if the Group B pensioner provides the board with a true and complete copy of a grant of an extension of time for the filing of the person's tax return from the appropriate governmental agency or a true and complete copy of an extension request that results in any automatic extension.

(d) *If, after evaluating the information received under Subsection (b) of this section, the board finds the Group B pensioner is or has been receiving earned income from one or more employments, including self-employment, during the preceding year, the board shall reduce future disability retirement* ~~[pension]~~ *payments to the Group B pensioner in accordance with the following formula: \$1 for each \$1 that the sum of "a" + "b" is greater than "c," where "a" is the earned income of the Group B pensioner attributable to the previous calendar year from the person's employments, "b" is the total amount of Group B disability retirement payments* ~~[pension]~~ *received by the Group B pensioner the previous calendar year, and "c" is the annualized amount of the average computation pay the Group B pensioner received as of the date the person left active service.*

(e) For purposes of the ~~[this]~~ computation under Subsection (d) of this section, the average computation pay shall be deemed increased at a rate of 2.75 percent ~~[of four percent simple interest]~~, without compounding during the year, as of each January 1 that the Group B pensioner receives a Group B disability retirement payment ~~[pension]~~.

SECTION 1.36. Section 6.06, Article 6243a-1, Revised Statutes, is amended by amending Subsections (b), (e), (f), (g), (h), (j), (k), (l), (m), (n), (o), (p), (q), (r), and (t) and adding Subsections (e-1), (e-2), (j-1), (o-1), (o-2), (u), and (v) to read as follows:

(b) A written application for benefits must be filed with the *executive director* ~~[administrator]~~.

(e) If ~~[the qualified]~~ surviving children of a primary party are not qualified survivors entitled to death benefits, the ~~[qualified surviving]~~ spouse of the primary party who is a qualified survivor is entitled only to receive a share of the death benefits in the amount calculated under Section 6.07(a) ~~[or (b)]~~ or Section 6.08(b)(1), (c)(1), (d)(1), or (e)(1) of this article, whichever is applicable, and is not entitled to what otherwise would be the ~~[qualified]~~ surviving children's share.

(e-1) If a primary party had ~~[there is]~~ no ~~[qualifying]~~ surviving spouse, any ~~[qualified]~~ surviving child who is a qualified survivor ~~[children]~~ shall receive only the amount calculated under Section 6.07(a) ~~[or (b)]~~ or Section 6.08(b)(2), (c)(2), (d)(2), or (e)(2) of this article, whichever is applicable, and ~~[are]~~ is ~~[are]~~ not entitled to what otherwise would be the ~~[qualified]~~ surviving spouse's share.

(e-2) If a primary party does not have a ~~[there is no qualified surviving]~~ spouse or ~~[qualified surviving]~~ children who are qualified survivors, any ~~[qualified]~~ dependent parent of the primary party who is a qualified survivor shall receive only the amount calculated under Section 6.07(c) or Section 6.08(b)(3), (d)(3), or (e)(3) of this article,

whichever is applicable, and is not entitled to what otherwise would be the [qualified] surviving spouse's or [qualified] surviving children's share.

(f) The *total monthly death benefits* [benefit] received by the qualified survivors of a primary party under this article, including the primary party's [surviving] spouse, [qualified-surviving] children, or [qualified] dependent parents, [parent] may not exceed the pension to which the deceased primary party was entitled per month.

(g) If there is no surviving spouse or legal guardian for the [qualified] surviving children of a primary party who are qualified survivors and if the board determines that the [qualified] surviving children lack the discretion to handle money, or in other appropriate circumstances, notwithstanding any other provision of this section, the board may request a court of competent jurisdiction to appoint a suitable person to receive and administer the [qualified] surviving children's money or in those circumstances described in Subsection (n) of this section, appoint a new trustee to administer the [qualified] surviving children's [support] trust.

(h) With the exception of a [support] trust described in Subsection (n) of this section, no death benefits awarded to [qualified] surviving children may be used for any purpose other than to benefit the [qualified] surviving children. ~~[The board may withhold payment of benefits if it has reason to believe the benefits are not being properly applied.]~~

(j) With the exception of those circumstances described in Subsection (n) of this section, death benefits payable [paid] to [qualified] surviving children ~~[living with a person other than the surviving spouse]~~ shall be delivered to the legal guardian of the estate of the surviving children if one has been appointed and the pension system has been provided proof of the appointment. If no legal guardian has been appointed, death benefits shall be delivered to one of the following persons, provided there is evidence that the person is [person with whom the qualified surviving children are living, if the board has designated the person as being] a suitable person to receive and administer the benefits:

(1) the surviving spouse with whom the child resides; or

(2) the adult head of the household with whom the child resides, if the child does not reside with the surviving spouse.

(j-1) In accordance with Subsection (h) of this section, the recipient of a surviving child's death benefits under Subsection (j) of this section must use the death benefits to benefit the child. The board may~~[-however,]~~ withhold payment of benefits to anyone, if presented with evidence that the death benefits are not being used to benefit the surviving child ~~[but the legal guardian of the qualified surviving children and may require proof that a person has been appointed legal guardian of the qualified surviving children before authorizing any benefits to be delivered to that person].~~

(k) *Dependent* ~~[The qualified surviving dependent]~~ parents of a primary party ~~[member]~~ who are entitled to receive death ~~[any survivor]~~ benefits provided by this article may only receive the benefits for the remainder of the dependent parents' ~~[their]~~ lives.

(l) The pension system [board] may require all qualified survivors [persons] receiving death benefits~~[-including qualified surviving spouses, qualified surviving children or their guardians, and qualified surviving dependent parents,]~~ to file ~~[with the administrator, at least once every two years,]~~ a sworn statement with the executive director concerning the qualified survivor's ~~[their]~~ eligibility to continue to receive death benefits at least once every two years, or at any other time the executive director considers a sworn statement to be appropriate to evidence the continued eligibility of the qualified survivor. ~~[The board may also require a sworn statement from any person receiving death benefits at any time.]~~ The board may withhold death benefits from any person who fails or refuses to file a statement when requested to do so.

(m) When the last qualified survivor of any primary party becomes ineligible to continue to receive death benefits, ~~[that survivor shall be paid in a lump sum]~~ an amount equal to the excess ~~[difference]~~, if any, of ~~[between]~~ the total amount of all contributions made to the fund by the primary party while a member over ~~[-and]~~ the sum of all benefits paid to the primary party and all of the primary party's ~~[his]~~ qualified survivors

shall be paid in a lump sum to the last person to receive benefits as a qualified survivor or, if none exists, to the member's designee. The total amount to be paid in benefits to the primary party and all qualified survivors shall never be less than the total amount of contributions the primary party made to the fund while a member.

(n) Notwithstanding any other provision of this section:

(1) ~~[-]~~ death benefits awarded to an unmarried child who is a qualified survivor ~~[surviving child of a primary party]~~ who is determined by the board to be disabled ~~[handicapped]~~ under the terms of Subsection (o-2) ~~[(e)]~~ of this section may be paid to the trustee of a management trust, supplemental needs or special needs trust, or comparable trust ~~[support trust]~~ established for the benefit of the child, if the trust meets the requirements set forth in a procedure adopted from time to time by the board ~~[qualified surviving child if:~~

~~[(1) an opinion of counsel of the trustee of the support trust is furnished to the board indicating that payments made to the support trust will not, under existing law, be considered a resource of the qualified surviving child under Title 42, Section 1396(a)(17), of the United States Code or any successor statute, as well as applicable state law or regulations governing the situation]; and~~

~~(2) as soon as practicable after the pension system has knowledge of an event listed in this subdivision, the pension system shall terminate payment of death benefits to a [coincident with the furnishing of the opinion of counsel, the board is provided with an executed original of the support trust document for the records of the pension system;~~

~~[(3) the terms of the trust provide that the board will receive an annual accounting of the support trust from its trustee, although the board has no legal responsibility to oversee the support trust; and~~

~~[(4) the support] trust described by Subdivision (1) of this subsection effective [will terminate as soon as practicable] on the earlier occurrence of the following events:~~

(A) the date as of ~~[on]~~ which the ~~[qualified surviving]~~ child is determined by the board to no longer be disabled ~~[handicapped]~~ under the terms of this section;

(B) the date on which the ~~[qualified surviving]~~ child is lawfully married;

(C) the date on which the ~~[qualified surviving]~~ child is deceased;

(D) the date on which the pension system becomes aware that the assets of the ~~[support]~~ trust are deemed to be the resources of the child under applicable federal or state laws or regulations; or

(E) if ~~[unless otherwise excused by the board,]~~ the trustee of the child's ~~[support]~~ trust fails to provide a court of competent jurisdiction ~~[the board]~~ with an annual accounting of the child's trust, the date occurring ~~[within]~~ six months after the date of the close of the ~~[support]~~ trust's fiscal year.

(o) When a child who, as a qualified survivor, ~~[surviving child who]~~ is entitled to receive death benefits under this article reaches the age of 19, the ~~[qualified surviving]~~ child may no longer participate in the division of the benefits, but the same undiminished ~~[qualified surviving]~~ child's share as determined by this section shall be paid to any remaining ~~[qualified surviving]~~ children who are qualified survivors who remain eligible to continue to receive death benefits.

(o-1) If benefits are no longer payable to the trust described in Subsection (n)(1) of this section in accordance with Subsection (n)(2) of this section, the benefits are divisible and payable to any remaining children who are qualified survivors who remain eligible to receive death benefits.

(o-2) If an unmarried child ~~[under 19 years of age. However, a handicapped qualified surviving child may not be removed from participation in the division of benefits on reaching the age of 19 nor may the child be barred from original participation at any time after reaching the age of 19, and the payments shall continue for the duration of the handicap. If a qualified surviving child is not married and], after cessation of entitlement to death benefits [(because of attainment of age 19) but before age 23], becomes~~

disabled before age 23 [handicapped], the child is entitled to participate in the division of death benefits under this article. Notwithstanding the preceding, all death benefits granted under this subsection are conditioned on the board finding that:

(1) the [qualified-surviving] child is so physically or mentally disabled [handicapped], either congenitally or through injury suffered or disease contracted, as to be unable to be self-supporting or to secure and hold gainful employment or pursue an occupation;

(2) the [qualified-surviving] child is not married;

(3) the disability [handicap] was not the result of an occupational injury for which the [qualified-surviving] child received compensation equal to or greater than that provided under this article;

(4) the disability [handicap] was not the result of an intentional self-inflicted injury or a chronic illness itself resulting from an addiction of the [qualified-surviving] child through a protracted course of [noncoerced] indulgence in alcohol, narcotics, or other substance abuse that was not coerced; and

(5) the disability [handicap] did not occur as a result of the [qualified-surviving] child's participation in the commission of a felony.

(p) If a [handicapped-qualified-surviving] child with a disability received or is receiving workers' compensation resulting from an occupational injury equal to an amount less than the death benefit to be provided under this section, the difference shall be paid out of the assets of the fund in the form otherwise payable as monthly benefits. For purposes of Subsections [Subsection] (o), (o-1), and (o-2) of this section, if a lump sum is awarded for an injury, the fund's actuary may compute a corresponding monthly equivalent. A finding relating to a [qualified-surviving] child's disability [handicap] is subject to periodic review and modification by the board.

(q) On the death or marriage of a [qualified-surviving] child granted death benefits under this article, the death benefits shall cease being paid to that child; however, the same undiminished [qualified-surviving] child's share as determined by this section shall be uniformly distributed among any remaining unmarried [qualified-surviving] children who are:

(1) under 19 years of age; or

(2) disabled [and any unmarried-qualified-surviving children who are handicapped] as described by Subsection (o-2) [(o)] of this section and entitled to death benefits as qualified survivors.

(r) A spouse of a primary party who married the primary party [resulting from any marriage to a former member or pensioner] after the date the primary party terminated [member or pensioner leaves] active service is not a qualified survivor [surviving spouse] and is [not] entitled only to those death benefits, if applicable, provided under Section 6.063 of this article.

(t) A [qualified] surviving spouse who first remarried on or after April 21, 1988, is eligible to receive death benefits for the remainder of the [qualified-surviving] spouse's life provided the surviving spouse is a qualified survivor. This subsection may not be applied retroactively.

(u) The eligibility of a surviving spouse who first remarried before April 21, 1988, is governed by Section 6.061 of this article.

(v) The qualified survivors of a member who dies while performing qualified military service are entitled to any additional benefits, other than benefits relating to the qualified military service, that qualified survivors would have received if the member had returned from qualified military service the day before death, resumed employment, and then died.

SECTION 1.37. Part 6, Article 6243a-1, Revised Statutes, is amended by adding Sections 6.061, 6.062, 6.063, and 6.064 to read as follows:

Sec. 6.061. PROSPECTIVE REINSTATEMENT OF CERTAIN DEATH BENEFITS.

(a) Subject to Subsection (c) of this section, the surviving spouse of a primary party who was a member of the old plan, Plan A, or Plan B whose death benefits, also referred to as

"survivor benefits" or "widow benefits," terminated because of a remarriage of the surviving spouse that occurred before April 21, 1988, is entitled to receive death benefits, on a prospective basis only, as of the first day of the month following the month in which the executive director receives the application.

(b) The board shall make reasonable efforts to notify all known living surviving spouses who may be entitled to a reinstatement of benefits under this section.

(c) A surviving spouse's properly completed, board-approved application for reinstatement of death benefits under this section must be received by the executive director not later than the 180th day after the date the board completes, as determined by the board, the reasonable efforts required by Subsection (b) of this section.

(d) A surviving spouse's application for reinstatement of death benefits under this section constitutes the spouse's waiver of any claims against the pension system, the board, the executive director, or any other employee of the board or the pension system arising out of any claim for death benefits.

(e) This section may not be applied retroactively. A surviving spouse may not receive death benefits attributable to periods before the executive director's receipt of a properly completed and board-approved application, and any benefit provided to a surviving spouse described in this section must be calculated as if the benefits had not terminated on the surviving spouse's remarriage notwithstanding the fact the reinstatement of benefits is not retroactive.

Sec. 6.062. LUMP-SUM PAYMENT ON DEATH OF CERTAIN MEMBERS. (a) If an unmarried member dies while on active service and before beginning participation in DROP, the last person to receive benefits as the member's qualified survivor or, if the member does not have a qualified survivor living, the member's designee, shall be paid a lump-sum payment determined in accordance with this section if, at the time of the member's death, the member:

- (1) had no qualified survivors; or
 - (2) only had qualified survivors who are children who become ineligible to receive death benefits before the benefits were paid for at least 120 consecutive months.
- (b) The amount of the lump-sum payment under this section is the greater of:
- (1) the payment that could have been provided under Section 6.06(m) of this article; or
 - (2) an amount equal to the actuarial equivalent of the remainder of the monthly benefits that would have been paid for the period from the last monthly benefit payment to the end of the 120 months, starting with the date of the first monthly benefit payment, if any.
- (c) If no death benefit payments have been made with respect to the member, the amount of a monthly death benefit payment shall be considered to be the monthly death benefit that would have been paid if the member had died leaving only one dependent parent who was a qualified survivor.

(d) If a qualified survivor or designee is entitled to payment under both this section and Section 6.06(m) of this article, payments shall be made only under this section.

(e) The payment required under this section shall be made as soon as practicable after the later of the date:

- (1) of the death of the member; or
- (2) the last qualified survivor becomes ineligible to receive monthly death benefit payments.

Sec. 6.063. AUTHORITY TO ELECT CERTAIN ACTUARIALLY REDUCED BENEFITS. (a) The board shall adopt policies under which a member who is leaving active service or a pensioner may elect to accept actuarially reduced benefits to provide the following optional benefits:

- (1) a 100 percent joint and survivor annuity with the member's or pensioner's spouse;
- (2) a 50 percent joint and survivor annuity with a spouse who is not a qualified survivor because the marriage to the pensioner occurred after the pensioner terminated active ser-

vice, provided the election is made not later than one year after the date of the marriage; or

(3) a death benefit for a child who is not a qualified survivor because the child was born or adopted after the member left active service, but only if the child:

(A) is a dependent of the pensioner, within the meaning of Section 152(a)(1) of the code; and

(B) has not attained 18 years of age at the time of the election.

(b) An election under this section may not be revoked by the member or pensioner after it is filed with the pension system.

(c) Notwithstanding any other provision of this article, an election under this section shall result in benefits being paid as prescribed by this section instead of as prescribed by Section 6.01, 6.02, 6.04, 6.05, 6.07, or 6.08 of this article, as applicable.

(d) A pensioner who desires to make an election under Subsection (a)(1) of this section after having made an election under Subsection (a)(2) of this section shall incur a second actuarial reduction in benefits to pay for the increased survivor annuity.

(e) Except as provided by Subsection (f) of this section, a person is not entitled to the payment of benefits under this section with respect to a pensioner who makes an election after termination of active service and dies within one year after making the election, except the amount by which the pensioner's benefits were reduced are paid to the person who is entitled to receive payments under Section 6.064 of this article.

(f) Subsection (e) of this section does not apply to a person who makes an election under Subsection (a)(1) of this section to receive a 100 percent joint and survivor annuity with a spouse who is a qualified survivor at the time:

(1) the board grants a retirement pension; or

(2) a retirement pension would have been granted but for the fact that the person elected to participate in DROP after retirement.

(g) The actuarially reduced benefits being paid to the pensioner under this section will not be increased if the spouse dies before the pensioner, or if the child attains 19 years of age before the pensioner dies.

(h) The joint and survivor annuity or the pensioner's pension and child's death benefit payable under this section is the actuarial equivalent of the pension and death benefits, if any, that would have been payable, at the time of the election, if the election had not been made. On the death of the pensioner:

(1) the surviving spouse of a pensioner who made an election under Subsection (a)(1) of this section receives a pension that is equal to the reduced pension being received by the pensioner at the time of death; and

(2) a surviving spouse who is not a qualified survivor of a pensioner who made an election under Subsection (a)(2) of this section receives a pension that is 50 percent of the reduced pension being received by the pensioner at the time of death.

(i) A pensioner and surviving spouse receiving a death benefit payable under this section are eligible for adjustments under Sections 6.12 and 6.13 of this article, if the pensioner or surviving spouse, as applicable, is otherwise entitled to those adjustments, except that in each case the adjustment shall be calculated so that the total pension or death benefit paid is reduced by the same percentage the pensioner's pension is otherwise reduced under this section.

(j) A pensioner and surviving spouse receiving a death benefit payable under this section are not entitled to the minimum benefits provided under Section 6.10A, 6.10B, or 6.11 of this article.

(k) A surviving spouse receiving a death benefit payable under this section is not entitled to the special death benefit provided under Section 6.09 of this article.

(l) During a period in which there are two or more qualified survivors of a member who has made a joint and survivor annuity election under this section, the spousal benefit

will be divided among the eligible survivors under Section 6.07 or 6.08 of this article, as applicable.

(m) A child's death benefit elected under Subsection (a)(3) of this section is treated the same way as a death benefit to a child who is a qualified survivor, except that it is based on the actuarially reduced pension.

Sec. 6.064. **DESIGNEES.** (a) A member, pensioner, or qualified survivor may at any time designate, in writing, one or more persons as a designee to receive any lump-sum payment due from the pension system on the death of the member, pensioner, or qualified survivor, as applicable.

(b) A designation under this section of a person other than the spouse of the member, pensioner, or qualified survivor, as appropriate, must be made with the written consent of the spouse, if the individual has a spouse.

(c) A designation made under this section:

(1) may be revoked or changed at any time; and

(2) is void if the person designated dies or goes out of existence before the payment is made.

(d) If a member, pensioner, or qualified survivor designates a spouse to receive a payment and the parties are later divorced, the designation is void at the time of the divorce unless ratified in writing at the time of the divorce or after that time.

(e) A designation by a member under this section is void at the time the member becomes a pensioner unless ratified in writing at the time the member becomes a pensioner or after that time.

(f) If a member, pensioner, or qualified survivor does not have a valid designee on file with the pension system at the time of death, the designee is:

(1) the spouse;

(2) the qualified survivors, if any, if there is no spouse;

(3) the estate of the person, if there is no spouse or qualified survivors; or

(4) the heirs of the person, if there is no spouse, qualified survivors, or estate.

SECTION 1.38. Sections 6.07, 6.08, 6.09, and 6.10A, Article 6243a-1, Revised Statutes, are amended to read as follows:

Sec. 6.07. **GROUP A DEATH BENEFITS.** (a)(1) If a Group A member dies before leaving active service ~~[retirement]~~ and before the Group A member ~~had~~ *has* 20 years of pension service, ~~the Group A member's [leaving both a qualified surviving] spouse and [qualified surviving] children who are [, the] qualified [surviving spouse shall make an election for all] survivors shall, in the aggregate, [to] receive a Group A death benefit [consisting in the aggregate of an amount] equal to a Group A retirement pension computed under the terms of Section 6.01 of this article as if the Group A member had completed 20 years of pension service. [An election under this subdivision, once made, is irrevocable. This Group A death benefit shall be divided one-half to the qualified surviving spouse and one-half to the qualified surviving children.]~~

(2) If a Group A ~~[pensioner dies during disability retirement and before the Group A pensioner had 20 years of pension service, leaving both a qualified surviving spouse and qualified children, the survivors in the aggregate shall receive a Group A death benefit calculated either under Sections 6.01(b) and (c) of this article if the Group A pensioner's Group A disability pension was calculated under Section 6.04(a) of this article, or under Section 6.01(e) of this article if the Group A pensioner's Group A disability pension was calculated under Section 6.04(b) of this article. This Group A death benefit shall be divided one-half to the qualified surviving spouse and one-half to the qualified surviving children.]~~

~~[(b)(1) If a Group A member or former Group A] member dies before service retirement and after the Group A member *has* [or former Group A member *has*] 20 years of pension service, ~~the Group A member's [leaving both a qualified surviving] spouse and~~~~

~~[qualified surviving] children[;] who are [the] qualified [surviving spouse shall make an election for all] survivors shall, in the aggregate, [to] receive a Group A death benefit calculated under Section 6.01 of this article as if the Group A member [of an amount equal to a Group A retirement pension the Group A member or former Group A member would have received] had [the person] left active service on the date of the [death, computed under the terms of Section 6.01 of this article. An election under this subdivision, once made, is irrevocable. This] Group A member's death [benefit shall be divided one-half to the qualified surviving spouse and one-half to the qualified surviving children].~~

(3) *If a Group A pensioner dies during service retirement, the Group A pensioner's spouse and children who are qualified survivors shall, in the aggregate, receive a Group A death benefit in an amount equal to the Group A retirement pension being received by the Group A pensioner on the date of the pensioner's death.*

(4) *If a Group A pensioner dies after November 25, 1996, while receiving periodic disability compensation under Section 6.05 of this article or a disability pension under Section 6.04 of this article, and before the Group A pensioner has 20 years of pension service, the Group A pensioner's spouse and children who are qualified survivors shall, in the aggregate, receive a Group A death benefit calculated under Section 6.04 or 6.05 of this article, as applicable, in the same manner as the Group A pensioner's periodic disability compensation or disability pension, but as if the Group A pensioner had completed 20 years of pension service.*

(5) ~~[(2)(A)]~~ *If a Group A pensioner who has 20 or more years of pension service dies during disability retirement, the Group A pensioner's spouse and children who are qualified survivors shall, in the aggregate, [dies leaving both a qualified surviving spouse and qualified surviving children, the qualified surviving spouse shall make an election for all survivors to] receive a Group A death benefit in an [the] amount equal to [of] the Group A disability [retirement] pension being received by the Group A pensioner on the date of the pensioner's death.*

(b) ~~[before the person's death. This]~~ *Group A death benefits under Subsection (a) of this section [benefit] shall:*

(1) *be divided one-half to the [qualified surviving] spouse and one-half to the [qualified surviving] children who are qualified survivors; and [-]*

(2) *subject to [(B) With] the terms of Sections [exception of those circumstances described by Section] 6.06(n), (o), (o-1), and (o-2) of this article, be distributed in an equal and uniform manner to the children described by Subdivision (1) of this subsection [the Group A death benefits awarded to the qualified survivors under this subsection shall be paid entirely to the qualified surviving spouse and the qualified surviving children. The qualified surviving children's one-half share shall be equally and uniformly distributed by the qualified surviving spouse to them].*

(c) ~~[(c)(1)]~~ *If a Group A member or pensioner [former Group A member] dies leaving no [qualified surviving] spouse or [qualified surviving] children who are qualified survivors, the [but leaves surviving one or both qualified surviving dependent parents, the qualified surviving] dependent parents who are qualified survivors shall [may elect to] receive a Group A death benefit equal to the death benefit otherwise payable under Subsection (a) of this section. The death benefit payable to the dependent parents under this subsection shall be divided equally between the parents regardless of whether the parents are married or living at the same residence. [Group A retirement pension the Group A member or former Group A member would have been entitled to under Section 6.01 of this article after leaving active service. If there are two qualified dependent parents, the election must be mutual. An election under this subdivision, once made, is irrevocable. The qualified surviving dependent parents of a Group A pensioner shall receive a Group A death benefit equal to the amount of the actual Group A retirement pension being received at the time of the pensioner's death, divided equally between the qualified surviving dependent parents.*

~~[(2) If a Group A pensioner dies during disability retirement and before the Group A pensioner had 20 years of pension service, leaving no qualified surviving spouse or quali-~~

~~fixed surviving children, but leaves surviving one or both qualified surviving dependent parents, the qualified surviving dependent parents may elect to receive a Group A death benefit calculated either: under Sections 6.01(b) and (c) of this article if the Group A pensioner's Group A disability pension was calculated under Section 6.04(a) of this article, or under Section 6.01(c) of this article if the Group A pensioner's Group A disability pension was calculated under Section 6.04(b) of this article. An election under this subdivision, once made, is irrevocable.~~

~~[(d)] If there is only one [qualified surviving] dependent parent, that [the] parent is entitled to one-half of the death benefit described in [amount determined under Subsection (c)(1) or (c)(2) of] this subsection [section].~~

Sec. 6.08. GROUP B DEATH BENEFITS. (a) If a Group B member dies while on active service, a ~~[former]~~ Group B member who ~~left active service and~~ is vested under Section 5.06 of this article dies, or a Group B pensioner dies while ~~receiving [on] service or disability retirement or while receiving periodic disability compensation under Section 6.05 of this article, the person's qualified survivors, or the person described in Section 6.06(g) or (j) of this article as the recipient of the children's benefits [guardian of the qualified surviving children if no qualified surviving spouse exists],~~ may make application for Group B death benefits. ~~If the deceased [The qualified surviving spouse of a Group B member or former Group B member described by this subsection, the guardian of the qualified surviving children of the person if no qualified surviving spouse exists, or the qualified dependent parents if no qualified surviving spouse or qualified surviving children exist, have the option to select whether Group A or Group B death benefits are received, if the Group B member or former] Group B member was previously eligible to elect whether to receive either a Group A or Group B retirement pension, the option to elect whether Group A or Group B death benefits are received shall be exercised by one of the following:~~

- ~~(1) a qualified survivor who is the spouse of the deceased Group B member described by this subsection;~~
- ~~(2) the person described in Section 6.06(g) or (j) of this article as the recipient of benefits on behalf of the deceased member's children who are qualified survivors, if no spouse is a qualified survivor; or~~
- ~~(3) the qualified survivors who are dependent parents of the deceased member, if there is neither a spouse nor children who are qualified survivors.~~

~~(a-1) A qualified survivor who receives Group A death benefits under Subsection (a) of this section [subsection] is entitled to a ratable portion of a reimbursement from the fund in the same amount and manner determined under Section 5.03(d) of this article. A qualified survivor or guardian desiring a refund of excess contributions must make application for the refund with the executive director [administrator] within three years after the date the qualified survivor or guardian makes application for Group A death benefits. The option contained in this subsection is not available to qualified survivors of a Group B member [or former Group B member] who had, at the time of death, already applied for a retirement pension and selected a Group A retirement pension as provided by Section 5.03(c) or (c-1) of this article, but the qualified survivors are entitled to receive a Group A death benefit.~~

~~(b) Subject to Subsection (b-2) of this section, death [Death] benefits shall be computed as follows for the qualified survivors of Group B members who die while on active service:~~

- ~~(1) the [A qualified surviving spouse's Group B] death benefit of a qualified survivor who is the spouse of a member who began active service:~~

- ~~(A) before March 1, 2011, shall be the sum of:~~
 - ~~(i) the number of years of pension service earned before September 1, 2017, prorated for fractional years, times 1.5 percent of the [computed at the rate of 1.5 percent of the Group B member's] average computation pay determined over the 36 [60] consecutive months of pension service in which the Group B member received the highest computation pay; plus~~

(ii) ~~the number of [~~for each year, and prorated for fractional years, of pension service with a minimum of 20] years of pension service, including pension service credit imputed under Section 6.05(c) of this article, after September 1, 2017, prorated for fractional years, times the applicable percentage rate set forth below ~~[assumed, or 30 percent]~~ of the average computation pay determined over the 60 consecutive months of pension service in which the Group B member received the highest computation pay:

Age of Member When Retirement Pension Begins	Percent
58 and older	1.25%
57	1.2%
56	1.15%
55	1.10%
54	1.05%
53 and younger	1.0%; or

(B) on or after March 1, 2011, shall be the number of years of pension service, including pension service imputed under Section 6.05(c) of this article, prorated for fractional years, times 1.25 percent of the average computation pay determined over the 60 consecutive months of pension service in which the Group B member received the highest computation pay;

(2) the death benefit of qualified survivors who are a member's children shall be computed in the same manner as a spouse's benefit is computed under Subdivision (1)(A) or (B) of this subsection, as applicable, and shall be divided equally among all of the children who are qualified survivors; and

(3) the death benefit of each qualified survivor who is a member's dependent parent shall be computed in the same manner as a spouse's Group B benefit is computed under Subdivision (1)(A) or (B) of this subsection, as applicable.

(b-1) Pension service for purposes of the calculation under Subsection (b) of this section may not be less than 20 years. Any partial year of pension service for the first 20 years of pension service is counted as a full year of pension service, if the member was considered by the member's department to have worked a normal full-time schedule at the time of the member's death.

(b-2) The death benefit calculated under Subsection (b) of this section may not exceed the greater of:

(1) ~~45 [a computation for 32 years of pension service, or 48]~~ percent of the member's average computation pay determined over the 36 or 60 consecutive months, as applicable, in which the Group B member received the highest computation pay; or

(2) the vested and accrued death benefit as determined on August 31, 2017.

(b-3) For purposes of Subsections (b) through (b-2) of this section:

(1) if ~~[H]~~ the Group B member had less than 36 or 60 consecutive months, as applicable, ~~[five years]~~ of pension service, the average computation pay will be computed based on the person's entire pension service; and

(2) days during which the member earned no pension service due to a termination of active service or otherwise must be disregarded in determining the 36 or 60 consecutive months of highest computation pay.

~~[(2) A qualified surviving child's Group B death benefit shall be computed in the same manner as a qualified surviving spouse's benefit is computed under Subdivision (1) of this subsection and shall be divided equally among all of the qualified surviving children.~~

~~[(3) Each qualified surviving dependent parent's Group B death benefit shall be computed in the same manner as a qualified surviving spouse's Group B benefit is computed under Subdivision (1) of this subsection.]~~

(c) Group B death benefits shall be computed as follows for the qualified survivors of

any ~~former~~ Group B member who died after leaving active service and who had vested rights under Section 5.06 of this article but who had not received ~~Group B~~ retirement benefits ~~under Section 6.02 of this article~~ at the time of death:

(1) *the death benefit of a* ~~The~~ *qualified survivor who is the member's* ~~surviving~~ spouse ~~of the former Group B member~~ is ~~entitled to a Group B death benefit~~ equal to 50 percent of any ~~Group B~~ retirement pension the ~~former Group B~~ member would have been entitled to ~~under Section 6.02 of this article~~ as of the date the ~~former Group B~~ member left active service;[-]

(2) *the death benefits of* ~~The~~ *qualified survivors who are the member's* ~~surviving~~ children ~~of the former Group B member~~ are ~~entitled to a Group B benefit~~ calculated in the same manner as the spouse's benefit is computed under Subdivision (1) of this subsection ~~Group B death benefit of a qualified surviving spouse~~, to be divided equally between the ~~qualified surviving~~ children; and[-]

(3) *the death benefit of each* ~~Each of the~~ *qualified survivor who is the member's* ~~surviving~~ dependent parent ~~parents of the former Group B member~~ is ~~entitled to a Group B death benefit~~ equal to 50 percent of any ~~Group B~~ retirement pension the ~~former Group B~~ member would have been entitled to ~~under the provisions of Section 6.02 of this article~~ as of the date the ~~former Group B~~ member left active service.

(d) Group B death benefits shall be computed as follows for the qualified survivors of any Group B pensioner ~~of this plan~~ who dies while receiving service ~~a Group B~~ retirement ~~pension~~:

(1) *the death benefit of a* ~~The~~ *qualified* ~~surviving~~ *survivor who is the pensioner's* spouse ~~of a Group B pensioner~~ is ~~entitled to Group B death benefits~~ equal to 50 percent of any retirement pension the Group B pensioner was receiving at the time of death;[-]

(2) *the death benefits of qualified survivors who are the pensioner's* ~~The qualified surviving~~ children ~~of a Group B pensioner~~ are ~~entitled to a Group B death benefit~~ calculated in the same manner as the spouse's benefit is computed under Subdivision (1) of this subsection ~~Group B death benefit of a qualified surviving spouse~~, to be divided equally between the ~~qualified surviving~~ children; and[-]

(3) *the death benefit of each* ~~Each of the~~ *qualified survivor who is the pensioner's* ~~surviving~~ dependent parent ~~parents of a Group B pensioner~~ is ~~entitled to a Group B death benefit~~ equal to 50 percent of any retirement pension the Group B pensioner was receiving at the time of death.

(e) Group B death benefits shall be computed as follows for the qualified survivors of any Group B pensioner who dies while receiving disability retirement or while receiving periodic ~~a Group B~~ disability compensation under Section 6.05 of this article ~~pension due to either a service-connected or nonservice-connected disability~~:

(1) *the death benefit of a* ~~The~~ *qualified survivor who is the pensioner's* ~~surviving~~ spouse ~~of the Group B pensioner~~ is ~~entitled to the greater of a Group B death benefit~~ equal to 50 percent of any Group B periodic disability compensation or disability pension the Group B pensioner would have been entitled to ~~under Section 6.05 of this article~~ as of the date the Group B pensioner left active service because of disability, or a Group B death benefit equal to 50 percent of any periodic disability compensation or ~~Group B~~ disability pension the Group B pensioner was receiving at the time of death;[-]

(2) *the death benefits of* ~~The~~ *qualified survivors who are the pensioner's* ~~surviving~~ children ~~of the Group B pensioner~~ are ~~entitled to a Group B death benefit~~ calculated in the same manner as the spouse's ~~Group B death~~ benefit is computed under Subdivision (1) of this subsection ~~of a qualified surviving spouse~~, to be divided equally between the ~~qualified surviving~~ children; and[-]

(3) *the death benefit of each* ~~Each of the~~ *qualified survivor who is the pensioner's* ~~surviving~~ dependent parent ~~parents of the Group B pensioner~~ is ~~entitled to the greater of a Group B death benefit~~ equal to 50 percent of any periodic disability compensation or disability pension the Group B pensioner would have been entitled to ~~under Section 6.05 of this article~~ as of the date the Group B pensioner left active ser-

vice because of disability, or a Group B death benefit equal to 50 percent of any *periodic disability compensation* or ~~[Group B]~~ disability pension the Group B pensioner was receiving at the time of death.

Sec. 6.09. QUALIFIED SURVIVING SPOUSE SPECIAL DEATH BENEFIT. (a) A ~~person who is the [Notwithstanding Sections 6.06 and 6.07 of this article, the qualified surviving]~~ spouse of a Group A primary party, ~~who is a qualified survivor, and who is entitled to death benefits under Sections 6.06, 6.061, 6.062, 6.063, and 6.07 of this article~~ is also entitled to a special death benefit under this section if:

(1) the Group A primary party:

(A) ~~[elected to receive a Group A retirement pension and later died, was receiving a disability or retirement pension either under the terms of Plan A before the original enactment of this article or elected to receive a Group A retirement pension under Sections 6.01(e), (f), and (g) of this article and later died, or was receiving a Group A disability pension under Section 6.04(c) of this article and later died;~~

~~[(2) the Group A primary party (i)]~~ had at least 20 years of pension service, ~~[and]~~ left active service after October 1, 1985, and was at least 55 years of age ~~on the earlier of the date the primary party:~~

(i) left active service; or

(ii) began participation in DROP ~~[or older]~~; or

~~(B) had [(ii) on or after May 1, 1990, the Group A primary party, after accruing] at least 20 years of pension service, left active service on or after May 31, 2000, and on the earlier of the date the primary party left active service or began participation in DROP, [and] had a total of at least 78 [80] credits, with each year of pension service, prorated for fractional years, equal to one credit and with each year of age, prorated for fractional years, equal to one credit; or [and]~~

~~(2) the [(3) the qualified surviving]~~ spouse has attained 55 years of age and there are no ~~[qualified surviving]~~ children ~~who are qualified survivors~~ eligible for death benefits.

(b) Until the requirements of Subsection (a) of this section are satisfied, a qualified survivor ~~who is the spouse of a Group A primary party [surviving spouse]~~ shall receive a Group A death benefit in accordance with Section 6.07 of this article.

(c) The special Group A death benefit under Subsection (a) of this section is calculated based on the following formula:

$$(P \times P \times A) + (P \times C) + D, \text{ where}$$

A = base pay at the time the Group A primary party *began participation in DROP*, begins service retirement, dies, or becomes disabled, plus longevity pay, plus one-twelfth of last-received city service incentive pay;

B = Group A primary party's benefit calculated at the time the Group A primary party *began participation in DROP*, begins service retirement, dies, or becomes disabled;

P = B/A (expressed as a percentage or a decimal);

C = the number of adjustments made to a Group A primary party's ~~[Group A] retirement pension, disability pension, or periodic [Group A] disability compensation, [pension under Section 6.04 of this article]~~ multiplied by the amount of the adjustments; and

D = the number of adjustments made *under this article* to the ~~[a qualified surviving spouse's]~~ Group A death benefit of a spouse ~~who is a qualified survivor~~ under Section 6.07 of this article, multiplied by the amount of the adjustments.

(d) A ~~person who is the [Notwithstanding Sections 6.03 and 6.05 of this article, a qualified surviving]~~ spouse of a Group B primary party, ~~who is a qualified survivor, and who is entitled to any death benefits under Sections 6.06, 6.061, 6.062, 6.063, and [or] 6.08 of this article~~ is also entitled to a special benefit under this section if:

(1) the Group B primary party ~~[elected to receive a Group B retirement pension and later died, or was receiving a Group B disability or retirement pension under this article and died;~~

~~[(2) the Group B primary party]:~~

(A) had at least 20 years of pension service, left active service after October 1, 1985, and was at least 55 years of age at the *earlier of the date the primary party left [time of leaving] active service or began participation in DROP*; or

(B) on or after May 31, 2000 ~~[1, 1999]~~, ~~[the Group B primary party]~~ left active service or began participation in DROP, *whichever was earlier*, having a total of at least 78 ~~[80]~~ credits, with each year of pension service, prorated for fractional years, equal to one credit and with each year of age, *determined at the time the Group B primary party left active service or began participation in DROP*, prorated for fractional years, equal to one credit; or ~~[and]~~

~~(2) [(2)] the [qualified surviving] spouse has attained 55 years of age, and there are no [qualified surviving] children of the primary party who are qualified survivors.~~

~~(d-1) Until the requirements of Subsection (d) [(e)] of this section are satisfied, a spouse who is a qualified survivor [surviving spouse] may only receive a Group B death benefit in accordance with Sections 6.06, 6.061, 6.062, 6.063, [6.08] and 6.08 [6.05] of this article.~~

~~(e) The [This] special Group B death [survivor] benefit under Subsection (d) of this section is calculated based on the following formula:~~

$$(P \times P \times A) + (P \times C) + D, \text{ where}$$

A = average monthly computation pay at the time the Group B primary party begins service retirement, dies, ~~[or]~~ becomes disabled, or begins participation in DROP;

B = the Group B primary party's benefit ~~[Group B retirement or Group B disability pension]~~ calculated at the time the Group B primary party begins participation in DROP, begins to receive service ~~[or disability]~~ retirement, ~~[or]~~ dies, or becomes disabled;

P = B/A (expressed as a percentage or a decimal);

C = the number of *post-retirement* ~~[postretirement]~~ adjustments made to a Group B primary party's ~~[Group B] retirement pension, disability pension, or periodic [Group B] disability compensation [pension under Section 6.05 of this article]~~ multiplied by the amount of the adjustments; and

D = the number of adjustments made to the ~~[a qualified surviving spouse's]~~ Group B death benefit of a qualified survivor who is the primary party's spouse under Section 6.08 of this article multiplied by the amount of the adjustments.

Sec. 6.10A. MINIMUM BENEFITS TO CERTAIN GROUP A PRIMARY PARTIES WHO WERE GROUP A, OLD PLAN, OR COMBINED PENSION PLAN MEMBERS ~~[ELECT TO RECEIVE RETIREMENT PENSION UNDER SECTIONS 6.01(B) AND (C)]~~ AND THEIR QUALIFIED SURVIVORS. (a) Except as provided by Section 6.063 of this article or Subsections (b) and (h) of this section and notwithstanding any benefit computation and determination to the contrary contained in this article, the minimum Group A benefits provided by this section shall be paid to any Group A primary party who elects to receive a Group A retirement pension under Sections 6.01(b) and (c) of this article, *the old plan, or former Section 14(a) of this article*, or to the primary party's qualified survivors ~~[- The benefits under this section shall be distributed in accordance with Sections 6.01(b) and (c), 6.04(a), or 6.07 of this article, as applicable]~~, except that a Group A primary party who elects to receive an actuarially reduced ~~[Group A retirement pension because of the primary party's request to receive a Group A] retirement pension~~ before 50 years of age and the primary party's qualified survivors are not entitled to the ~~[Group A] minimum benefits specified under this section~~. An alternate payee is not entitled to the Group A minimum benefits specified in this section.

(b) A Group A primary party who elects to receive a Group A retirement pension under Sections 6.01(b) and (c) of this article, *the old plan, or former Section 14(a) of this article* and who left active service with 20 or more years of pension service is entitled to receive a minimum Group A retirement pension of \$2,200 ~~[\$1,500]~~ a month. ~~[If the Group A primary party's Group A retirement pension is subject to a qualified domestic~~

~~relations order and the sum of the actuarial equivalents of the monthly benefits payable to the Group A primary party and the alternate payee is less than the actuarial equivalent of the minimum monthly Group A retirement pension described by this subsection, the Group A primary party's monthly Group A retirement pension will be increased so that the sum of the actuarial equivalents of the alternate payee's and the Group A primary party's monthly Group A retirement pension equals the actuarial equivalent of the minimum monthly Group A retirement pension calculated under this subsection.]~~

(c) *In the absence of children who are [A] qualified survivors, a [surviving] spouse who is a qualified survivor of a Group A primary party who elected to receive a Group A retirement pension under Sections 6.01(b) and (c) of this article, the old plan, or former Section 14(a) of this article will receive a minimum monthly Group A death benefit of \$1,200 [\$750].*

(d) *A spouse who is a qualified survivor [surviving spouse] of a Group A primary party who elected to receive a Group A retirement pension under Sections 6.01(b) and (c) of this article, the old plan, or former Section 14(a) of this article will receive, if there are children who are qualified survivors [surviving children], a minimum Group A death benefit of \$1,100 [\$750] a month. [The qualified surviving children, as a group, will receive a minimum Group A death benefit of \$750 a month, to be divided equally among them.]*

(e) *In the absence of a spouse who is a qualified survivor [surviving spouse] of a Group A primary party who elected to receive a Group A retirement pension under Section [Sections] 6.01(b), [and] (c), or (e) of this article, the old plan, or former Section 14(a) of this article, the primary party's children who are qualified survivors [surviving children], as a group, will receive a minimum Group A death benefit of \$1,100 [\$750] a month, to be divided equally among them.*

(f) *If there is neither a [In the absence of both a qualified surviving] spouse nor a child who is a [and] qualified survivor [surviving children] of a Group A primary party who elected to receive a Group A retirement pension under Sections 6.01(b) and (c) of this article, the old plan, or former Section 14(a) of this article, each [qualified surviving] dependent parent who is a qualified survivor will receive a minimum Group A death benefit of \$1,100 [\$750] a month. If only one of them is surviving, that [the qualified surviving] dependent parent will receive a minimum Group A death benefit equal to \$1,100 [\$750] a month.*

(g) *Notwithstanding the minimum monthly benefit described in other subsections of this section, a Group A primary party who receives periodic disability compensation under Section 6.05(b) of this article or a Group A disability pension under Section 6.04(a) of this article, the old plan, or former Section 17(a) of this article, [calculated in the same manner as a Group A retirement pension under Sections 6.01(b) and (c) of this article,] shall receive a minimum Group A disability pension equal to \$2,200 [\$1,500] a month.*

(h) *If a Group A pensioner who received a monthly benefit under Section 6.05(b-1) of this article or a disability pension under Section 6.04(a) of this article, calculated in the same manner as a Group A retirement pension under Sections 6.01(b) and (c) of this article, the old plan, or former Section 17(a) of this article [primary party's disability pension is subject to a qualified domestic relations order and the sum of the actuarial equivalents of the monthly benefits payable to the Group A primary party and the alternate payee is less than the actuarial equivalent of the minimum monthly Group A disability pension determined under Subsection (g) of this section, the Group A primary party's minimum monthly Group A disability pension will be increased so that the sum of the actuarial equivalents of the alternate payee's and the Group A primary party's minimum monthly Group A disability pension equals the amount determined under Subsection (g) of this section.*

~~(i) If a Group A pensioner who received a disability under Section 6.04(a) of this article, calculated in the same manner as a Group A retirement pension under Sections 6.01(b) and (c) of this article] before the completion of 20 years of pension service dies, the qualified survivors will receive a minimum Group A death benefit as provided under Subsection (c), (d), (e), or (f) of this section, as applicable, whichever is greatest.~~

SECTION 1.39. The heading to Section 6.10B, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 6.10B. MINIMUM BENEFITS TO CERTAIN GROUP A PRIMARY PARTIES WHO WERE GROUP A, PLAN A, OR COMBINED PLAN MEMBERS [ELECT TO RECEIVE RETIREMENT PENSION UNDER SECTION 6.01(E)] AND THEIR QUALIFIED SURVIVORS.

SECTION 1.40. Sections 6.10B(a), (b), (c), (d), (e), (f), (g), and (i), Article 6243a-1, Revised Statutes, are amended to read as follows:

(a) Except as provided by *Section 6.063 of this article and Subsection [Subsections] (b) [and (h)]* of this section and notwithstanding any benefit computation and determination to the contrary contained in this article, the minimum Group A benefits provided by this section shall be paid to any Group A primary party who elects to receive a Group A retirement pension under Section 6.01(e) of this article, *Plan A, or former Section 14(b) of this article* or to the primary party's qualified survivors~~[- The benefits under this section shall be distributed in accordance with Section 6.01(e), 6.04(b), or 6.07 of this article, as applicable]~~, except that a Group A primary party who elects to receive an actuarially reduced Group A retirement pension ~~[because of the primary party's request to receive a Group A retirement pension]~~ before 55 years of age and the primary party's qualified survivors are not entitled to the ~~[Group A]~~ minimum benefits specified in ~~[under]~~ this section. An alternate payee is not entitled to the Group A minimum benefits specified in this section.

(b) A Group A primary party who *elects [elected]* to receive a Group A retirement pension under Section 6.01(e) of this article, *Plan A, or former Section 14(b) of this article* and who left active service with 20 or more years of pension service is entitled to receive a minimum ~~[Group A]~~ retirement pension equal to the greater of \$2,200 ~~[(i) \$1,500]~~ a month or ~~[(ii) \$1,000]~~ a month adjusted, *if applicable*, in the manner described by Section 6.12 ~~[6.12(a)]~~ of this article. ~~[If the Group A primary party's Group A retirement pension is subject to a qualified domestic relations order and the sum of the actuarial equivalents of the monthly benefits payable to the Group A primary party and the alternate payee is less than the actuarial equivalent of the minimum monthly Group A retirement pension described by this subsection, the Group A primary party's monthly Group A retirement pension will be increased so that the sum of the actuarial equivalents of the alternate payee's and the Group A primary party's monthly Group A retirement pension equals the actuarial equivalent of the minimum monthly Group A retirement pension calculated under this subsection.]~~

(c) *In the absence of children who are [A] qualified survivors, a [surviving] spouse who is a qualified survivor* of a Group A primary party who *elects [elected]* to receive a Group A retirement pension under Section 6.01(e) of this article, *Plan A, or former Section 14(b) of this article* will receive a minimum *monthly [Group A]* death benefit equal to the greater of \$1,200 ~~[(i) \$750]~~ a month or ~~[(ii) \$500]~~ a month adjusted, *if applicable*, in the manner described by Section 6.12 ~~[6.12(a)]~~ of this article.

(d) *A spouse who is a qualified survivor [surviving spouse]* of a Group A primary party who elects to receive a Group A retirement pension under Section 6.01(e) of this article, *Plan A, or former Section 14(b) of this article* will receive, if there are *children who are qualified survivors [surviving children]*, a minimum Group A death benefit equal to the greater of \$1,100 ~~[(i) \$750]~~ a month or ~~[(ii) \$500]~~ a month adjusted, *if applicable*, in the manner described by Section 6.12 ~~[6.12(a)]~~ of this article. *The children who are qualified survivors [surviving children]*, as a group, will receive a minimum ~~[Group A]~~ death benefit equal to the greater of \$1,100 ~~[(iii) \$750]~~ a month or ~~[(iv) \$500]~~ a month adjusted, *if applicable*, in the manner described by Section 6.12 ~~[6.12(a)]~~ of this article, to be divided equally among them.

(e) In the absence of a *spouse who is a qualified survivor [surviving spouse]* of a Group A primary party who elected to receive a Group A retirement pension under Section 6.01(e) of this article, *Plan A, or former Section 14(b) of this article*, the ~~[the qualified surviving children of a Group A]~~ primary party's children who are qualified survivors ~~[party]~~, as a group, will receive a minimum Group A death benefit equal to the greater of

\$1,100 [(i) \$750] a month or [(ii) \$500 a month adjusted, *if applicable*, in the manner described by Section 6.12 [6.12(a)] of this article, to be divided equally among them.

(f) *If there is neither a [In the absence of both a qualified surviving] spouse nor child who is a [and] qualified survivor [surviving children] of a Group A primary party who elected to receive a Group A retirement pension under Section 6.01(e) of this article, Plan A, or the former Section 14(b) of this article, each [qualified surviving] dependent parent who is a qualified survivor will receive a minimum Group A death benefit equal to the greater of \$1,100 [(i) \$750] a month or [(ii) \$500 a month adjusted, if applicable, in the manner described by Section 6.12 [6.12(a)] of this article. If only one of them is surviving, that [the qualified surviving] dependent parent will receive a minimum Group A death benefit equal to the greater of \$1,100 [(iii) \$750] a month or [(iv) \$500 a month adjusted, if applicable, in the manner described by Section 6.12 [6.12(a)] of this article.*

(g) Notwithstanding the minimum monthly benefit as described in other subsections of this section, a Group A primary party who leaves active service on a *non-service-connected [nonservice-connected]* disability under Section 6.04(a) [6.04(b)(2)] of this article, *Plan A, or former Section 17(b)(2) of this article* with less than 20 years of pension service shall receive a minimum monthly Group A disability pension equal to the greater of \$110 [(i) \$75] multiplied by the number of years of the primary party's pension service or [(ii) \$50 multiplied by the number of years of the primary party's pension service, the product adjusted, if applicable, in the manner described by Section 6.12 [6.12(a)] of this article.

(i) If a Group A pensioner who received a *non-service-connected [nonservice-connected]* disability pension under Section 6.04(a) [6.04(b)(2)] of this article, *Plan A, or former Section 17(b)(2) of this article* before the completion of 20 years of pension service dies, the qualified survivors will each receive the amount specified in Section 6.07 of this article or the minimum [monthly] Group A death benefit as provided under Subsection (c), (d), (e), or (f) of this section, as applicable, whichever is greatest.

SECTION 1.41. Sections 6.11, 6.12, and 6.13, Article 6243a-1, Revised Statutes, are amended to read as follows:

Sec. 6.11. MINIMUM BENEFITS TO GROUP B PRIMARY PARTIES AND THEIR QUALIFIED SURVIVORS. (a) Except as provided by *Section 6.063 of this article or* Subsections (b), (c), and (h) of this section and notwithstanding any benefit computation and determination to the contrary contained in this article, the minimum Group B benefits provided by this section shall be paid to any Group B primary party or the primary party's qualified survivors, except *further that a Group B primary party who elects to receive an actuarially reduced [Group B] retirement pension, including a request for a benefit under Sections 6.02(c) and (d) of this article, [because of the primary party's request to receive the pension at or after age 45, but before age 50] and the primary party's qualified survivors[;] or [an] alternate payee [of the primary party], are not entitled to the Group B minimum benefits specified by this section.*

(b) If a Group B primary party leaves active service with 20 or more years of pension service, the Group B primary party is entitled to receive a Group B minimum retirement pension equal to the greater of \$2,200 [(i) \$1,500] a month or [(ii) \$925 a month, which sum may (A) increase at the rate of \$5 a month for each year of pension service beyond 20 years, but the increase may not exceed \$75 and (B) be adjusted, if applicable, in the manner described by Section 6.12 [6.12(a)] of this article. ~~[If a Group B primary party's Group B retirement pension is or becomes subject to a qualified domestic relations order and the sum of the actuarial equivalents of the monthly Group B retirement pension payable to the Group B primary party and the alternate payee is less than the actuarial equivalent of the minimum monthly Group B retirement pension as calculated under this subsection, the Group B primary party's monthly Group B retirement pension will be increased so that the sum of the actuarial equivalents of both the alternate payee's and the Group B primary party's Group B retirement pensions equals the actuarial equivalent of the minimum monthly Group B retirement pension as calculated under this subsection.]~~

(c) If a Group B primary party leaves active service with less than 20 years of pension

service, the primary party is entitled to receive a minimum monthly Group B retirement pension equal to the greater of:

(1) ~~\$2,200 [(i) \$1,500]~~ a month divided by 20 and multiplied by the Group B primary party's number of years of pension service; or

(2) ~~[(ii)] \$925~~ a month divided by 20 and multiplied by the Group B primary party's number of years of pension service, which amount is then adjusted, *if applicable*, in the manner described by Section 6.12 [6.12(a)] of this article. ~~[If a Group B primary party's retirement pension is or becomes subject to a qualified domestic relations order and the sum of the actuarial equivalents of the monthly Group B retirement pension payable to the Group B primary party and the alternate payee is less than the actuarial equivalent of the monthly retirement pension as calculated under this subsection, the Group B primary party's monthly Group B retirement pension will be increased so that the sum of the actuarial equivalents of the alternate payee's and the Group B primary party's monthly Group B retirement pensions equals the actuarial equivalent of the minimum monthly Group B retirement pension as calculated under this subsection.]~~

(d) In the absence of ~~children who are~~ qualified survivors, a spouse who is a ~~surviving children, the~~ qualified survivor ~~[surviving spouse]~~ of a Group B primary party will receive a minimum Group B death benefit equal to the greater of:

(1) ~~\$1,200 [(i) \$750]~~ a month; or

(2) ~~[(ii)] \$600~~ a month adjusted, *if applicable*, in the manner described by Section 6.12 [6.12(a)] of this article.

(e) A spouse who is a qualified survivor ~~[surviving spouse]~~ of a Group B primary party ~~[will receive]~~, if there are ~~children who are~~ qualified survivors ~~[surviving children]~~, will receive ~~[the greater of a minimum Group B death benefit of 50 percent of the primary party's minimum monthly Group B retirement pension described by Subsection (b) or (c) of this section, whichever is applicable. The qualified surviving children, as a group, will receive the greater of]~~ a minimum ~~[monthly]~~ Group B death benefit of ~~\$1,100 a month [50 percent of the minimum monthly Group B retirement pension described by Subsection (b) or (c) of this section, whichever is applicable, to be divided equally among them].~~

(f) ~~The [In the absence of a qualified surviving spouse, the qualified surviving]~~ children who are qualified survivors of a Group B primary party, as a group, will receive a minimum Group B death benefit equal to the greater of ~~\$1,100 [(i) \$750] a month or [(ii)] \$600 a month adjusted, if applicable, in the manner described by Section 6.12 [6.12(a)] of this article, to be divided equally between them.~~

(g) ~~If there is neither a [In the absence of either a qualified surviving] spouse nor a child who is a [or] qualified survivor [surviving children], each [qualified surviving] dependent parent who is a qualified survivor of the deceased Group B primary party will receive a minimum death benefit of \$1,100 a month [Group B minimum death benefit equal to the greater of 50 percent of the Group B primary party's minimum monthly Group B retirement pension described by Subsection (b) or (c) of this section, whichever is applicable. If only one qualified surviving dependent parent is surviving, the parent will receive a Group B minimum death benefit of 50 percent of the minimum monthly Group B retirement pension described by Subsection (b) or (c) of this section, whichever is applicable].~~

(h) Notwithstanding the minimum monthly ~~[Group B]~~ retirement pension otherwise described by this section, a Group B primary party who left active service on a *non-service-connected* ~~[nonservice-connected]~~ disability with less than 20 years of pension service will receive a minimum monthly ~~[Group B]~~ disability pension equal to the greater of ~~\$110 [(i) \$75]~~ multiplied by the number of years of the primary party's pension service or ~~[(ii)] \$46.25~~ multiplied by the number of years of the primary party's pension service, the product adjusted in the manner, *if applicable*, described by Section 6.12 [6.12(a)] of this article. ~~[If the Group B primary party's Group B disability pension is or becomes subject to a qualified domestic relations order and the sum of the actuarial equivalents of the monthly Group B disability pension payable to the Group B primary party and the alternate payee is less than the actuarial equivalent of the monthly disability pension as~~

~~calculated under this subsection, the Group B primary party's monthly Group B disability pension will be increased so that the sum of the actuarial equivalents of the alternate payee's and the Group B primary party's monthly Group B disability pensions equals the actuarial equivalents of the minimum monthly Group B disability pension as calculated under this subsection.] If a Group B primary party who was receiving a non-service-connected [nonservice-connected Group B] disability pension before the completion of 20 years pension service dies, the qualified survivors will receive the amount specified in Section 6.08 of this article, or the [Group B] minimum monthly death benefits granted to qualified survivors as provided by Subsections (d), (e), (f), and (g) of this section, as applicable, whichever is greater.~~

Sec. 6.12. ADJUSTMENTS TO RETIREMENT AND DISABILITY PENSION BENEFITS. (a) *This section applies to the following benefits provided under this article:*

(1) ~~[Annually on the first day of October,]~~ a retirement pension calculated under Section 6.01(e) ~~[Section 6.01]~~ or 6.02 of this article;

(2) ~~;~~ a disability pension calculated under Section 6.04 of this article, other than under Section 6.04(a) of this article;

(3) *periodic disability compensation benefit under* Section ~~[or]~~ 6.05 of this article, other than Section 6.05(b-1) of this article; ~~;~~ or

(4) a death benefit calculated under:

(A) Section 6.07 of this article, if calculated in the manner of a retirement pension under Section 6.01(e) of this article or in the manner of a disability compensation benefit under Section 6.05(b) of this article; or

(B) Section 6.08 of this article currently in pay status, or pending board approval on the last day of September ~~;~~ ~~will be increased by an amount equal to four percent, not compounded, of the original amount of the retirement or disability pension or death benefit].~~

(b) *Except as provided by Subsection (d) of this section, annually on the first day of October, the pension system may increase the base pension of a benefit described by Subsection (a) of this section by a percentage equal to the average annual rate of actual investment return of the pension system for the five-year period ending on the December 31 preceding the effective date of the adjustment less five percent.*

(c) *An adjustment under this section may not be less than zero percent or exceed four percent of the applicable base pension benefit.*

(d) *The pension system may only make an adjustment to benefits under this section if the ratio of the amount of the pension system's market value of assets divided by the amount of the pension system's actuarial accrued liabilities, after giving effect to the adjustment, is not less than .70.*

(e) *For purposes of Subsection (d) of this section, the amount of the pension system's market value of assets and the amount of the pension system's actuarial accrued liabilities shall be based on and determined as of the date of the most recently completed actuarial valuation.*

(f) *The following persons may not receive an adjustment under this section:*

(1) *a member on active service, including a DROP participant;*

(2) *a pensioner until the first October 1 occurring after both the pensioner's retirement and the earlier of:*

(A) *the date the pensioner reaches 62 years of age; or*

(B) *the third anniversary of the date the pensioner retired; or*

(3) *a qualified survivor until the first October 1 occurring after the earlier of:*

(A) *the date the qualified survivor reaches 62 years of age;*

(B) *the third anniversary of the date the primary party retired; or*

(C) *the third anniversary of the date of the member's or pensioner's death.*

(g) ~~[(b)]~~ A ~~[Group B]~~ retirement or ~~[Group B]~~ disability pension or periodic disability compensation paid to any Group B pensioner may not be less than the Group B pensioner's base pension.

(h) The death benefit of *the qualified survivors who are the* ~~[a Group B-qualified surviving]~~ spouse, ~~[Group B-qualified surviving]~~ dependent parent, or child of a Group B pensioner ~~[parents, as a group, or Group B-qualified surviving children]~~, as a group, may not be less than 50 percent of *the* ~~[a Group B]~~ pensioner's base pension.

Sec. 6.13. SUPPLEMENT TO CERTAIN RECIPIENTS 55 YEARS OF AGE OR OLDER. (a) *Except as provided by Subsection (b) of this section, if [H] a pensioner had at least 20 years of pension service under any plan adopted pursuant to Article 6243a or this article, or if a pensioner is receiving the periodic [a service-connected] disability compensation benefit under Section 6.05 of this article [pension], the pensioner, the pensioner's [qualified surviving] spouse who is a qualified survivor eligible to receive benefits under this article, or the pensioner's [qualified surviving] children who are qualified survivors, as a group, under Section 6.06 [6.06(e)] of this article are entitled to receive, when the pensioner or spouse who is a qualified survivor [surviving spouse] attains 55 years of age, provided the pensioner or spouse attains 55 years of age before September 1, 2017, [the greater of] a monthly supplement equal to the greater of \$50 or three percent of their total monthly benefit[;] and for months [years] beginning on and after January 1, 1991, a [the] monthly supplement [will be] equal to the greater of \$75 or three percent of their total monthly benefit. For purposes only of calculating this supplement, the phrase "their total monthly benefit" means the amount payable to a pensioner or qualified survivors under the terms of the plans described by this section under which the pensioner or qualified survivor elected to receive benefits but does not include the supplement authorized by this section or any adjustments under Section 6.12 of this article made after September 1, 2017.*

(b) *A person described by Subsection (a) of this section who, on September 1, 2017, is not receiving or has not received a supplemental benefit under this section is not entitled to receive a supplemental benefit under this section.*

SECTION 1.42. Section 6.14, Article 6243a-1, Revised Statutes, is amended by amending Subsections (a), (b), (c), (d), (e), (f), (g), (h), and (j) and adding Subsections (e-1), (e-2), (e-3), (e-4), (f-1), (g-1), (l), (m), (n), and (o) to read as follows:

(a) ~~A [In lieu of either leaving active service and commencing a retirement pension as provided for under Section 6.01 or 6.02 of this article, whichever is applicable, or remaining in active service and continuing to accrue additional pension benefits as provided under Section 6.01 or 6.02, a] member who remains on active service after becoming [is] eligible to receive a [an unreduced] retirement pension under either Section 6.01 or 6.02 of this article may [remain in active service,] become a participant in the deferred retirement option plan [Deferred Retirement Option Plan ("DROP")] in accordance with Subsections (b) and (c) of this section, and defer the beginning of the person's retirement pension. Once an election to participate in the DROP has been made, the election continues in effect at least as long as the member remains in active service. On leaving active service, the member may:~~

(1) *apply for a retirement pension under Sections 6.01(b) and (c), Section 6.01(e), or Section 6.02(b), (c), (d), or (e) [Section 6.02] of this article, whichever is applicable, together with any DROP benefit provided under this section; or*

(2) *continue to participate in DROP except the member is ineligible for disability benefits described by Subsection (g-1) of this section.*

(b) *The election to participate in the DROP shall be made in accordance with procedures set forth in any uniform and nondiscriminatory election form adopted by the board and in effect from time to time. To determine the proper amount to be credited to a member's DROP account, the election shall indicate whether the member desires to receive a retirement pension under Sections 6.01(b) and (c), Section 6.01(e), or Section 6.02(b), (c), (d), or (e) [6.02] of this article, whichever is applicable. The election may be made at any time on or after the date the member becomes eligible for a [an unreduced] retirement pension as provided by this subsection. The election [under Sections 6.01(b)]*

and (e), ~~Section 6.01(e), or Section 6.02 of this article, whichever is applicable, and~~ becomes effective on the first day of the first month on or after the date on which the member makes the election, *except that an election that would otherwise have been effective on October 1, 1993, and every October 1 after that date, is considered, for purposes of this section and Section 6.12 of this article, to be effective on September 30 of the year in which it would otherwise have been effective.* On and after the effective date of the election, the member will no longer be eligible for any refund of ~~[make member]~~ contributions ~~[to the fund, notwithstanding Section 4.02(b) or (f) of this article, whichever is applicable].~~ The election by one or more members to participate in the DROP has no effect on the amount of city contributions to the fund under Section 4.02 of this article.

(c) Each month after a member has made an election to participate in the DROP and indicated a desire to receive a retirement pension under Sections 6.01(b) and (c), Section 6.01(e), or *Section 6.02(b), (c), (d), or (e)* ~~[Section 6.02]~~ of this article, whichever is applicable, and *through the month before the month in which [until] the member leaves active service,* an amount equal to the retirement pension the member would have received under *the [Sections 6.01(b) and (c), Section 6.01(e), or Section 6.02, whichever is]* applicable *subsection[;]* for that month if the member had left active service and been granted a retirement pension by the board on the effective date of DROP participation shall be *credited [transferred]* to a separate DROP account maintained within the fund for the benefit of the member. Amounts held in *the DROP account of a member [member's DROP account]* shall be credited at the end of each calendar month ~~[with interest at a rate that will approximately equal one-twelfth of the annual rate assumed by the pension system's qualified actuary and approved by the board as the assumed actuarial rate of return for the fund].~~ *Notwithstanding this section, effective January 1, 2018, a member on active service who has 10 years or more of participation in DROP shall no longer have the amount of the member's retirement pension credited to the member's DROP account while the member is on active service.*

(d) A ~~[On leaving active service and on the board's grant of a retirement pension, a]~~ member *may not [who participates in DROP shall begin to]* receive a ~~[the balance in the person's DROP account under one of the following methods of]~~ distribution *from the member's DROP account while the member is on active service [elected by the member:*

~~[(1) a single sum distribution made at a time selected by the member but not later than April 1 of the year after the member attains 70 1/2 years of age;~~

~~[(2) an annuity to be paid in equal monthly payments for the life of the member, or for the life of the member and a designated beneficiary in the same manner as a retirement pension computed under Sections 6.01(b) and (c), Section 6.01(e), or Section 6.02 of this article, whichever is applicable, determined as of the date the member leaves active service based on the person's account balance and age and the age of the designated beneficiary, if applicable, on that date and using the mortality and earnings assumptions being used on that date by the pension system's qualified actuary and approved by the board as the assumed actuarial rate of return for the fund; or~~

~~[(3) substantially equal monthly or annual payments of the person's account balance beginning at a time selected by the member that is on or before April 1st of the year after the member attains 70 1/2 years of age and extending over a fixed period that does not exceed the life expectancy of the member, or the life expectancy of the member and the member's designated beneficiary, if applicable].~~

(e) *Except as provided by Subsections (e-1) and (l) of this section, the balance in the [The] DROP account [balance] of a member who terminated from active service on or before September 1, 2017, or who terminates from active service shall be distributed to the member in the form of an annuity, payable either monthly or annually at the election of the member, by annuitizing the amount credited to the DROP account over the life expectancy of the member as of the date of the annuitization using mortality tables recommended by the pension system's qualified actuary. The annuity shall be distributed beginning as promptly as administratively feasible after the later of, as applicable:*

(1) the date the member retires and is granted a retirement pension; or

(2) September 1, 2017 [elects the method of distribution described by Subsection (d)(3)]

of this section shall be credited with interest on the unpaid balance at the end of each calendar month in the same manner as is prescribed by Subsection (e) of this section].

(e-1) ~~The board may adopt a shorter period for annuitizing DROP account balances under Subsection (e) of this section if the pension system's qualified actuary determines that the shorter period will not cause the pension system's amortization period to exceed 25 years [A member may change a distribution election at any time before the member attains 70½ years of age to receive one or more additional payments or to accelerate or delay any payment not then due, if the change is communicated to the plan administrator, in accordance with procedures then in effect, not less than 30 days before the day it is to take effect and if the change does not result in a failure of the distributions to satisfy the requirements of Section 401(a)(9) of the code].~~

(e-2) *The annuitization of a DROP account under Subsection (e) of this section must reflect the accrual of interest on the amount in the DROP account as of September 1, 2017, over the annuitization period applied to the account under this section. The interest rate applied under this subsection must be a rate as reasonably equivalent as practicable to the interest rate on a note issued by the United States Department of the Treasury or other federal treasury note with a duration that is reasonably comparable to the annuitization period applied to the account, as determined by the board. The portion of an annuity attributable to amounts credited to a member's DROP account on or after September 1, 2017, may not reflect the accrual of this interest on annuitization.*

(e-3) *The board may by rule allow a DROP participant who has terminated active service and who is eligible for a retirement pension to:*

(1) *assign the distribution from the participant's annuitized DROP account to a third party provided the pension system receives a favorable private letter ruling from the Internal Revenue Service ruling that such an assignment will not negatively impact the pension system's qualified plan status; and*

(2) *subject to Subsection (e-4) of this section, in the event of a financial hardship that was not reasonably foreseeable obtain a lump-sum distribution from the participant's DROP account resulting in a corresponding reduction in the total number or in the amount of annuity payments.*

(e-4) *The board shall adopt rules necessary to implement Subsection (e-3)(2) of this section, including rules regarding what constitutes a financial hardship for purposes of that subdivision. In adopting the rules, the board shall provide flexibility to members.*

(f) *The board may adopt rules and policies relating to the administration of Subsections (e), (e-1), and (e-2) of this section if the rules and policies are:*

(1) *consistent with the qualification of the plan under Section 401 of the code; and*

(2) *in the best interest of the pension system [Any election made in accordance with Subsection (d) of this section may be changed at any time before leaving active service to any other election permitted by that subsection, subject to the requirements for spousal consent, in Section 6.14(d)(1), if applicable].*

(f-1) *The DROP account of a member who begins participating in DROP on or after September 1, 2017, does not accrue interest.*

(g) *The provisions of Sections 6.06, 6.061, 6.062, 6.063, 6.07, and 6.08 of this article pertaining to death benefits of a qualified survivor do not apply to amounts held in a member's or pensioner's DROP account [and the class of persons eligible to become qualified survivors of a member closes on the effective date of the member's participation in DROP]. Instead, a member or pensioner who participates in DROP may designate a beneficiary to receive the annuity payments under this section over the remaining annuitization period [balance of the member's DROP account] in the event of the member's or pensioner's death subject to any rights provided under Subsection (e-3) of this section and in the [following] manner allowed by Section 401(a)(9) of the code and any policy adopted by the board. A member or pensioner who is or becomes married is considered to have designated the member's or pensioner's spouse as the member's or pensioner's beneficiary, notwithstanding any prior beneficiary designation, unless the member or pensioner has made a different designation in accordance with a policy adopted by the board. If a*

member or pensioner does not have a spouse or the spouse predeceases the member or pensioner, the member's or pensioner's, as applicable, DROP account will be distributed to the member's or pensioner's, as applicable, designee. Notwithstanding anything in this section to the contrary, if a member or pensioner has previously designated the member's or pensioner's spouse as the beneficiary or co-beneficiary of the DROP account and the member or pensioner and spouse are subsequently divorced, the divorce automatically results in the invalidation of the designation of the spouse as a beneficiary and, if there is no additional beneficiary designated, the member's or pensioner's DROP account shall be distributed as provided by Subsection (e) of this section. If there are beneficiaries who survive the deceased member or pensioner, the surviving beneficiaries share equally in that portion that would have otherwise been payable to the former spouse. ‡

~~[(1) The beneficiary designation must be made on an election form adopted by the board and in effect from time to time and in accordance with the conditions on the form, except that if the member is married, the designation of a beneficiary other than the member's spouse is valid only if the spouse consents to the designation at the time, in the manner, and on the consent form as is adopted by the board and in effect from time to time.~~

~~[(2) If a member who participates in DROP dies while in active service or before the beginning of the member's DROP account, distributions will begin no more than one year after the date of the member's death under a method described by Subsection (d) of this section and shall be completed within the life, or life expectancy, of the designated beneficiary.~~

~~[(3) If a member who participates in DROP dies after having begun to receive distributions in accordance with Subsection (d) of this section, the balance in the member's DROP account shall continue to be distributed to the member's designated beneficiary or other person described by Subdivision (4) of this subsection in accordance with any elections that had been made under Subsection (d) of this section.~~

~~[(4) If the deceased member has not designated a beneficiary or has designated a beneficiary but not a method of distribution, the member's DROP account shall be distributed in a single sum payment as soon as administratively feasible after the member's death to the beneficiary if one was designated and otherwise to the spouse if the member was married at the time of death or, if the member was not married, to the member's estate.]~~

~~(g-1) [(5)] A member who [participates in DROP] becomes a DROP participant is ineligible for any disability benefits described by Section [Sections] 6.03, 6.04, or [and] 6.05 of this article, but is entitled to [instead, on the board's acknowledgment of a disability that would otherwise qualify the member for disability benefits, the board shall grant] a retirement pension in accordance with Sections 6.01(b) and (c), Section 6.01(e), or Section 6.02 of this article, whichever is applicable, on termination from active service, and [the member] is also entitled to receive annuity payments [both a retirement pension and a distribution of the DROP account] in accordance with Subsection (e) [(d)] of this section.~~

~~(h) The base pay or computation pay, whichever is applicable, in effect as of the effective date of a [Group A] member's participation in DROP shall be used in calculating the member's [Group A] retirement pension under Section 6.01 or 6.02 of this article. A [Group A] member who elects to participate in DROP does not accrue additional pension service for purposes of computing a [the Group A] retirement pension [provided under Section 6.01(e) of this article] for any period after the effective date of the election.~~

~~(j) Except as provided by Subsection (l) of this section, if [H] a pensioner who has been a [participated in] DROP participant returns to active service, the person must [once again] become a participant in DROP under the terms and conditions in effect at the time of [the person's] return to active service.~~

~~(l) Notwithstanding any other provision of this section and except as provided by Subsection (o) of this section, a member who has entered DROP before June 1, 2017, may revoke the DROP election at any time on or after September 1, 2017, and before the earlier of:~~

- (1) February 28, 2018; or
- (2) the member's termination of active service.
- (m) If a member revokes participation in DROP under Subsection (l) of this section:
 - (1) the member's DROP account balance is eliminated; and
 - (2) the member shall receive pension service credited for all or a portion of the period of the revoked DROP participation on payment of the required contributions for the period of the revoked DROP participation in accordance with a uniform and nondiscriminatory procedure adopted by the board that results in the payment of the amount of member contributions that would have been made if the member had never participated in DROP.
- (n) A member who revokes the member's DROP election under Subsection (l) of this section is entitled to only a monthly pension computed on the basis of the member's pension service, including pension service purchased under Subsection (m) of this section:
 - (1) that is based on the member's average computation pay at the time of leaving active service, if the member is a Group B member; or
 - (2) as provided by Section 6.01(b) of this article, if the member is a Group A member.
- (o) A member may not revoke DROP participation under Subsection (l) of this section if any money has been transferred out of the member's DROP account.

SECTION 1.43. Part 6, Article 6243a-1, Revised Statutes, is amended by adding Section 6.141 to read as follows:

Sec. 6.141. DEFERRED ANNUITIZATION OF CERTAIN DROP ACCOUNTS.

(a) This section applies only to a pensioner who:

- (1) before attaining 50 years of age:
 - (A) left active service; and
 - (B) was granted a service retirement pension under Section 6.01 or 6.02 of this article;
- (2) since the pensioner's retirement has continued to receive substantially equal periodic payments, as determined under Section 72(t) of the code; and
- (3) on September 1, 2017:
 - (A) is a DROP participant; and
 - (B) has not attained 59½ years of age.

(b) Notwithstanding Section 6.14 of this article and solely to avoid the possibility of an early distribution tax penalty under Section 72(t)(4) of the code:

- (1) a pensioner subject to this section may until the pensioner attains 59½ years of age:
 - (A) subject to Subsection (c) of this section, continue to participate in DROP;
 - (B) have the same amount of the pensioner's service retirement pension credited to the pensioner's DROP account as has been credited since the pensioner's service retirement pension was initially granted; and
 - (C) defer annuitization of the pensioner's DROP account under Section 6.14(e) of this article; and
- (2) once a pensioner subject to this section attains 59½ years of age:
 - (A) the pensioner may not have any portion of the pensioner's service retirement pension credited to the pensioner's DROP account; and
 - (B) as soon as administratively feasible, the balance in the pensioner's DROP account shall be annuitized and distributed to the pensioner in accordance with Section 6.14(e) of this article.

(c) The DROP account of a pensioner who continues participation in DROP under Subsection (b)(1)(A) of this section does not accrue interest on and after September 1, 2017.

SECTION 1.44. Sections 6.15(a), (b), and (e), Article 6243a-1, Revised Statutes, are amended to read as follows:

(a) The board may require the following pensioners receiving a disability pension or a periodic disability compensation benefit to appear and undergo a medical examination by the health director or, if the health director approves, by any licensed medical practitioner, to determine if the pensioner's disability continues or has been removed to the extent that the pensioner is able to resume duties with the department:

- (1) any Group A pensioner who has served less than 20 years;
- (2) any Group A pensioner who elected a Group A [B] disability pension under Section 6.04 [6.04(e)] of this article, periodic disability compensation under Section 6.05 of this article, or a non-service-connected disability pension under Plan A or former Section 17(b)(2) of this article, and who had ~~has served~~ more than 20 years of pension service, but is less than 55 years of age; and
- (3) any Group B pensioner who *was granted* [elected] a Group B disability pension under Section 6.04 of this article or periodic disability compensation under Section 6.05 of this article or a disability pension under the terms of Plan B and is less than 50 years of age.

(b) Any medical examination under this section is subject to the following conditions:

(1) Except as otherwise provided by this section, the board has complete discretion to require a pensioner to appear and undergo a medical examination as well as the time that may pass between examinations. When it becomes clear to the board from reliable medical evidence that the disability is unequivocally permanent and is not expected to diminish, the board may *waive* ~~not require~~ subsequent examinations.

(2) A pensioner may not be required to undergo a medical examination more often than once in a six-month period, except that the board may order the pensioner to undergo an examination at any time if the board has reason to believe the pensioner's disability has been removed and that the pensioner may be able to resume duties with the pensioner's former department or if the pensioner requests to be allowed to return to duty.

(3) If a pensioner fails to undergo an examination after being notified by the board that the examination is required, the board may discontinue disability benefits until the pensioner has undergone the examination and the results of the examination have been sent to the board.

(4) If the pensioner is examined by an approved outside medical practitioner other than the health director, the reasonable and customary cost of the examination, if any, is payable from the assets of the fund.

(e) Pursuant to its authority under Section 6.06(o-2) [6.06(e)] of this article to review and modify any funding relating to *the disability of a child who is a qualified survivor* ~~[surviving child's handicap]~~, the board may require *the* ~~[a handicapped]~~ qualified survivor *with a disability* ~~[surviving child]~~ receiving death benefits to appear and undergo medical examination by the health director or, if the health director approves, by any licensed medical practitioner, to determine if the *disability* ~~[handicap]~~ continues or if the *disability* ~~[handicap]~~ has been removed.

SECTION 1.45. Sections 6.16, 6.18, and 6.19, Article 6243a-1, Revised Statutes, are amended to read as follows:

Sec. 6.16. WAIVER OF BENEFITS. (a) A *primary party* ~~[pensioner who is on either service or disability retirement]~~, [a] qualified survivor ~~[surviving spouse, a handicapped qualified surviving child, a member who may be a participant in DROP]~~, or [a] beneficiary of a *member's* ~~[deceased former]~~ DROP account ~~[participant, or a qualified surviving dependent parent]~~ may, on a form prescribed by the board and filed with the *executive director* ~~[administrator]~~, ~~[irrevocably]~~ waive all or a portion of the benefits[,] to which the person ~~[who waives the benefit]~~ is or may be entitled. *The waiver may state whether it is revocable or irrevocable, and is irrevocable unless the waiver clearly states it is revocable.*

(b) The ~~[irrevocable]~~ waiver described by Subsection (a) of this section applies only to ~~[retirement, disability, or DROP survivor]~~ benefits that become payable on or after the date the waiver is filed.

(b-1) *Benefits waived by a revocable waiver are forfeited and the person making the waiver has no right, title, claim, or interest in the benefits.*

(c) *If two or more persons are or may be entitled to benefits under this article [there are two qualified surviving dependent parents receiving death benefits], the waiver described by Subsection (a) of this section must be executed by each person to become effective. The living parent or parents or legal guardian or guardians of a child must sign the waiver described by Subsection (a) of this section on behalf of the child [both of the parents].*

Sec. 6.18. INVESTIGATION. (a) The board shall consider all applications for retirement and disability pensions ~~[of members]~~, all applications for death benefits ~~[by qualified survivors]~~, and all elections to participate ~~[for participation by a member]~~ in DROP. The board shall give notice to ~~[those]~~ persons applying for benefits, advising them of their right to appear before the board and offer such sworn evidence as they may desire. Any ~~[primary party, survivor, or other]~~ person claiming retirement, disability, or DROP benefits may appear before the board ~~[in person]~~ and offer testimony that is relevant to a contested application for a retirement pension, a disability pension, death benefits ~~[benefit]~~, or DROP benefits ~~[benefit]~~. The chairman of the board may issue process for witnesses, administer oaths to witnesses, and examine any witness as to any matter affecting benefits under any plan within the pension system. Process for witnesses shall be served by any ~~[member of the police or fire department or by any other]~~ method of serving process ~~[or person]~~ permitted by the state law in any civil judicial proceeding. A witness who fails or refuses to attend and testify may be compelled to attend and testify, as in any judicial proceeding. The board may seek assistance from any court of competent jurisdiction to further compel or sanction a witness who fails or refuses to attend and testify.

(b) Any ~~[primary party, spouse, child, dependent parent, or other]~~ person ~~[claiming DROP benefits]~~ who is aggrieved by a determination of the board regarding ~~[on the person's application for or continuation of]~~ a retirement pension, a disability pension, ~~[or]~~ death benefits ~~[benefit]~~, or ~~[an election for]~~ DROP benefits may appeal the board determination to a state district court in the city ~~[county]~~ where the pension system is located by giving written notice of appeal. The notice shall contain a statement of the grounds and reasons why the party feels aggrieved. The notice shall be served personally on the executive director ~~[secretary of the board]~~ within 20 days after the date of the board's determination. After service of the notice, the party appealing shall file with the state district court a copy of the notice of intention to appeal, together with an affidavit of the party making service showing how, when, and on whom the notice was served.

(c) Within 30 days after the date of service of the notice of appeal on the board, the executive director ~~[secretary of the board]~~ shall make up and file with the state district court a transcript of all *nonprivileged* papers and proceedings in the case before the board. When the copy of the notice of appeal and the transcript has been filed with the court, the appeal is perfected, and the court shall docket the appeal, assign the appeal a number, fix a date for hearing the appeal, and notify both the appellant and the board of the date fixed for the hearing.

(d) At any time before the rendering of its decision on ~~[the]~~ appeal, the court may require further or additional proof or information, either documentary or under oath. On rendition of a decision on appeal, the court shall give to each party to the appeal a copy of the decision of the case. The decision ~~[or order]~~ of the court is appealable in the same manner as are civil cases generally.

(e) *As provided by Section 4.01 of this article, the [The] board shall approve all money used for investigations [as provided under Section 4.01 of this article]. The board may request the investigative services of either the police or fire departments in connection with any matter arising under this section.*

Sec. 6.19. CERTIFICATE OF MEMBER PENSION BENEFIT ELIGIBILITY ~~[RETIREMENT]~~. When a member has earned five ~~[20]~~ years of pension service, the member shall be issued an ~~[a certificate of retirement that, barring administrative error, miscalculation, or other error, after issuance is]~~ incontestable five-year certificate indicating that the member is entitled to pension benefits subject to the effect of any withdrawals

as permitted under Article 6243a or this article. The certificate shall state that the calculation of the retirement pension to which the member is entitled, or any disability benefits to which the member may become entitled, shall be determined solely under the actual terms of the combined pension plan as in effect at the time the member leaves active service. The certificate shall further state that in the case of the member's death, the member's qualified survivors, if any, may become ~~[shall be]~~ entitled to death ~~[survivor]~~ benefits as determined solely under the actual terms of the combined pension plan as in effect at the time of the member's death. The certificate shall bear a seal and be signed by the executive director ~~[mayor, or the mayor pro tem, or the city manager]~~ and ~~[by the]~~ chairman of the board ~~[and attested under the seal of the city by the city secretary]~~.

SECTION 1.46. Part 6, Article 6243a-1, Revised Statutes, is amended by adding Section 6.20 to read as follows:

Sec. 6.20. **ERRONEOUS PAYMENTS OR OVERPAYMENTS.** (a) If the pension system pays money to any person not entitled to the payment, whether by reason of an error of the pension system as to entitlement to or the amount of a benefit or otherwise, or an act or error of some other person, including the recipient of the payment, the recipient of the payment holds the funds to which the recipient was not entitled in constructive trust for the pension system and those funds are subject to demand by the pension system at any time.

(b) The recipient of an erroneous payment from the pension system shall repay to the pension system all funds associated with the erroneous payment.

(c) Subject to Subsection (e) of this section, the board may by rule adopt a procedure to enable the pension system to offset the future benefit or other payments of a recipient described by this section. In addition, the board may take any additional action, including the bringing of a lawsuit, the board considers necessary to recover an erroneous payment the pension system is entitled to under this section.

(d) If the pension system determines that a person is entitled to additional benefits as a result of an error made by the pension system, the pension system shall promptly pay the additional benefits owed.

(e) The board's correction procedures must comply with the Internal Revenue Service's Employee Plans Compliance Resolution System and Revenue Procedure 2016-51, including subsequent guidance.

SECTION 1.47. Article 6243a-1, Revised Statutes, is amended by adding Part 6A to read as follows:

PART 6A. EQUITABLE ADJUSTMENTS

Sec. 6A.01. **EQUITABLE ADJUSTMENTS TO BENEFITS.** (a) Subject to this section and notwithstanding any other provision of this article, the board by at least a two-thirds vote of all trustees may consider and adopt rules requiring the equitable return of funds paid to or credited to the benefit of a member or pensioner under this article before September 1, 2017, to the extent the funds exceeded reasonable amounts that should be paid or credited given the circumstances of the pension system at the time the payment or credit was made, including the return of excessive interest credited to a member's DROP account and excessive adjustments made under Section 6.12 of this article.

(b) For purposes of Subsection (a) of this section, "reasonable amounts" includes the amounts that would have been paid or credited:

(1) if the interest rate applied in determining a benefit, including the interest rate applied to a DROP account, equaled the actual, audited rate of return of the plan at the time the interest was credited to the account; or

(2) if the percentage increase applied under Section 6.12 of this article equaled the percentage increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) most recently published by the Bureau of Labor Statistics of the United States Department of Labor and used by the United States Social Security Administration to provide a cost-of-living adjustment for social security benefit payments payable beginning in January of the next year.

Sec. 6A.02. ADJUDICATION OF CERTAIN CHALLENGES. (a) The Texas Supreme Court has exclusive and original jurisdiction over a challenge to the constitutionality under the Texas Constitution of Section 6A.01 of this article. An action under this section is authorized to the full extent permitted by Section 3, Article V, Texas Constitution. The Texas Supreme Court may issue any injunctive, declaratory, or equitable relief the court deems appropriate or necessary to effectuate the court's mandamus jurisdiction in connection with a challenge under this section.

(b) Any action brought under this section must be filed not later than the 90th day after the date the board adopts a rule under Section 6A.01 of this article.

(c) If an action brought under this section is timely filed, the board may not enforce or otherwise administer any rules adopted pursuant to Section 6A.01 of this article during the pendency of the action.

SECTION 1.48. Section 8.01, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 8.01. QUALIFICATION UNDER FEDERAL TAX LAW. (a) The plans within the pension system and the assets of the fund are intended to qualify as a governmental plan under Sections [Section] 401 and 414(d) of the code, be exempt from federal income taxes under Section 501(a) of the code, and conform at all times to applicable requirements of law, regulations, and orders of duly constituted federal governmental authorities. Accordingly, if any provision of this article is subject to more than one construction, one of which will permit the qualification of a plan that is within the pension system, that construction that will permit the plan to qualify and conform will prevail.

(b) The plans within the pension system as well as the assets of the fund shall be maintained for the exclusive benefit of members and their beneficiaries. At no time before the termination of all the plans within the pension system and the satisfaction of all liabilities with respect to members and their beneficiaries under all plans shall any part of the principal or interest from the assets of the fund be used for or diverted to purposes other than the exclusive benefit of the members and beneficiaries.

(c) Notwithstanding any other provisions of this article, the annual benefit [pension] provided with respect to any member [may not exceed an annual benefit computed in accordance with the limitations prescribed by this subsection].

[(1) The maximum annual benefit payable] in any limitation year [to a member] may not exceed the amount permitted by Section 415(b) of the code for the limitation year, and the sum of the member contributions and all other annual additions for any limitation year may not exceed the amount permitted under Section 415(c) of the code for the limitation year. If the aggregated annual benefit or aggregated annual additions under [lesser of:

[(A) \$90,000; or

[(B) 100 percent of a member's 415 compensation averaged over the three consecutive limitation years, or the actual number of limitation years for a member whose total pension service is less than three consecutive limitation years, during which the member had the greatest aggregate 415 compensation from the city.

[(2) Benefits provided to a member under this article and under any defined benefit plan or plans maintained by the city shall be aggregated for purposes of determining whether the limitations in Subdivision (1) of this subsection are met. If the aggregate benefits otherwise payable from] any qualified plans created under this article and any other defined benefit plan or plans maintained by the city would otherwise exceed the limitations of Section 415 of the code [Subdivision (1) of this subsection], the required reductions in benefits or contributions shall first be made to the extent possible from the other plan or plans. The limitations referenced in this subsection shall be adjusted annually in accordance with Section 415(d) of the code and any adjustment to benefits applies to the benefits of active and terminated members and applies without regard to whether a terminated member is a pensioner.

[(3) The adjustments on retirement are the following:

~~[(A) If the annual benefit begins before a member attains age 62, the \$90,000 limitation, as adjusted, shall be reduced in a manner prescribed by the secretary of the treasury. However, that adjustment may not reduce the member's annual benefit below \$75,000, if the member's benefit begins after age 55, or the actuarial equivalent of \$75,000 beginning at age 55 if benefits begin before age 55. Furthermore, except as provided by Paragraph (C) of this subdivision, an adjustment may not reduce the member's annual benefit below \$50,000, regardless of the age at which the benefit begins.~~

~~[(B) If the annual benefit begins after a member attains age 65, the \$90,000 limitation, as adjusted, will be increased so that it is the actuarial equivalent of the \$90,000 limitation at age 65.~~

~~[(C) If a member's benefits begin before the member has at least 15 years of pension service as a full-time employee of the police or fire department, or both, including credit for full-time service in the armed forces of the United States, Paragraphs (A) and (B) of this subdivision shall be applied by substituting "social security retirement age" for "age 62" and for "age 65," and the last two sentences of Paragraph (A) of this subdivision do not apply in computing the benefit limitation for that member.~~

~~[(D) The portion of a member's benefit that is attributable to the member's own contributions is not part of the annual benefit subject to the limitations of Subdivision (1) of this subsection. Instead, the amount of those contributions is treated as an annual addition to a qualified defined contribution plan maintained by the city.~~

~~[(4)(A) The dollar limitation on annual benefits provided by Subdivision (1) of this subsection, and the \$50,000 limitation provided by Subdivision (3) of this subsection, but not the \$75,000 limitation provided by that subsection, shall be adjusted annually as provided by Section 415(d) of the code and the regulations prescribed by the secretary of the treasury. The adjusted limitation is effective as of January 1 of each calendar year and is applicable to limitation years ending with or within that calendar year.~~

~~[(B) The limitation provided by this paragraph for a member who has separated from service with a vested right to a pension shall be adjusted annually as provided by Section 415(d) of the code and the regulations prescribed by the secretary of the treasury.~~

~~[(5) The following interest rate assumptions shall be used in computing the limitations under this section:~~

~~[(A) For the purpose of determining the portion of the annual benefit that is purchased with member contributions, the interest rate assumption is 8.5 percent, compounded annually, for plan years beginning before 1988 and 120 percent of the federal mid-term rate, as in effect under Section 1274 of the code, compounded annually, for plan years beginning after 1987.~~

~~[(B) For the purpose of adjusting the annual benefit to a straight life annuity, the interest rate assumption is five percent, unless a different rate is required by the secretary of the treasury.~~

~~[(C) For the purpose of adjusting the \$90,000 limitation after a member attains age 65, the interest rate assumption is five percent, unless a different rate is required by the secretary of the treasury, and the mortality decrement shall be ignored to the extent that a forfeiture does not occur at death.~~

~~[(6) For purposes of Subdivisions (1) and (3) of this subsection, an adjustment under Section 415(d) of the code may not be taken into account before the limitation year for which that adjustment first takes effect. For purposes of Subdivisions (1) and (5) of this subsection, an adjustment is not required for the value of qualified joint and survivor annuity benefits, preretirement death benefits, postretirement medical benefits, or postretirement cost-of-living increases made in accordance with Section 415(d) of the code and Section 1.415-3(c) of the Income Tax Regulations.~~

~~[(7) This plan may pay an annual benefit to any member in excess of the member's maximum annual benefit otherwise allowed if:~~

~~[(A) the annual benefit derived from the city's contributions under any qualified plans~~

within this article and all defined benefit plans maintained by the city does not in the aggregate exceed \$10,000 for the limitation year or for any prior limitation year; and

~~[(D) the member has not at any time participated in a defined contribution plan maintained by the city.~~

~~[For purposes of this subdivision, member contributions to the plan are not considered a separate defined contribution plan maintained by the city.~~

~~[(8) If a member has less than 10 years of pension service in the plan at the time the member begins to receive benefits under the plan, the \$90,000 limitation, as adjusted, shall be reduced by multiplying the limitation by a fraction in which the numerator is the number of years of pension service and the denominator is 10; provided, however, that the fraction may not be less than one-tenth. The 100 percent limitation of Subdivision (1)(B) of this subsection, and the \$10,000 limitation of Subdivision (7) of this subsection shall be reduced in the same manner as provided by this subdivision, except the numerator shall be the number of years of employment with the city rather than years of pension service.~~

~~[(9) If a member is or has been a participant in one or more defined benefit plans and one or more defined contribution plans maintained by the city, the following provisions shall apply:~~

~~[(A) The sum of the defined benefit plan fraction and the defined contribution plan fraction for any limitation year may not exceed 1.0.~~

~~[(B) The defined benefit plan fraction for any limitation year is a fraction in which:~~

~~[(I) the numerator is the projected annual benefit of a member, determined as of the close of the limitation year pursuant to Section 1.415-7(b)(3) of the Income Tax Regulations; and~~

~~[(II) the denominator is the lesser of:~~

~~[(i) the product of 1.25 and the maximum dollar limitation provided by Subdivision (1)(A) of this subsection, as adjusted, for the limitation year; or~~

~~[(ii) the product of 1.4 and the amount that may be taken into account under Subdivision (1)(B) of this subsection for the limitation year.~~

~~[(C) The defined contribution plan fraction for any limitation year is a fraction in which:~~

~~[(I) the numerator is the sum of the annual additions to the member's account as of the close of the limitation year; and~~

~~[(II) the denominator is the sum of the lesser of the following amounts determined for the limitation year and each prior year of service with the city:~~

~~[(i) the product of 1.25 and the dollar limitation in effect under Section 415(c)(1)(A) of the code for the limitation year, determined without regard to Section 415(c)(6) of the code; or~~

~~[(ii) the product of 1.4 and the amount that may be taken into account under Section 415(c)(1)(B) of the code for the limitation year beginning before January 1, 1987; the annual additions may not be recomputed to treat all member contributions as an annual addition.~~

~~[(D) If the sum of the defined benefit plan fraction and the defined contribution plan fraction exceeds 1.0 in any limitation year for any member of any plan within the pension system, the administrator shall limit, to the extent necessary, the annual additions to the member's account for that limitation year. If after limiting to the extent possible the annual additions to the member's account for the limitation year, the sum of the defined benefit plan fraction and the defined contribution plan fraction still exceeds 1.0; the administrator shall adjust the benefits under the defined benefit plan fraction so that the sum of both fractions shall not exceed 1.0 in any limitation year for the member.~~

~~[(10) For purposes of determining the limits provided by this section, all qualified defined benefit plans, whether terminated or not, ever maintained by or contributed to~~

by the city, shall be treated as one defined benefit plan, and all qualified defined contribution plans, whether terminated or not, ever maintained by or contributed to by the city, shall be treated as one defined contribution plan.]

(c-1) [(11)] Notwithstanding anything contained in this section to the contrary, the limitations, adjustments, and other requirements prescribed by this section shall at all times be computed in the manner most favorable to the affected members, to the extent permitted by guidelines issued by the Internal Revenue Service [comply with the requirements of Section 415 of the code and all regulations promulgated under the code]. If any provision of Section 415 of the code is repealed or is not enforced by the Internal Revenue Service, that provision may not reduce the benefits of any member after the effective date of the repeal of the provision or during the period in which the provision is not enforced.

(c-2) Any benefit reductions that are required to be made under this section shall be applied to reduce the monthly benefit that would otherwise have been payable to the member, unless the value of the member's DROP account accrued under Section 6.14 of this article exceeds the amount that may be paid under this section. If the value of the DROP account exceeds the value of the payments that may be made under this section, the member shall receive a lump-sum payment from the account of the maximum amount that may be paid under this section and the payment shall permanently reduce the benefits the member would otherwise have been entitled to receive under the combined pension plan.

(d) A member's retirement pension may not begin later than April 1 of the year after the later of the year in which the member leaves active service or the year in which the member attains age 70½ and must at all times comply with the requirements of Section 401(a)(9) of the code. [Benefits to a qualified beneficiary may not begin later than one year after the date of the member's death].

(e) Any person [member or beneficiary] who receives any distribution from any plan within the pension system that is an eligible rollover distribution as defined by Section 402(f)(2)(A) of the code is entitled to have that distribution transferred directly to another eligible retirement plan as defined by Section 402(c)(8)(B) of the code of the person's [member's or beneficiary's] choice on providing direction regarding that transfer to the executive director [administrator] in accordance with procedures established by the executive director [administrator].

(e-1) If an eligible rollover distribution described by Subsection (e) of this section is to a designated beneficiary who is not the spouse or former spouse of the member, the transfer may only be to an individual retirement account or an individual retirement annuity.

(f) For the 2017 calendar year, the [The] annual compensation taken into account for any purpose under the combined pension plan [this article] may not exceed \$400,000 for an eligible participant or \$270,000 for an ineligible participant [\$200,000 for any calendar year]. For a Group A member the term "annual compensation" means the aggregate of the member's base pay. For a Group B member the term "annual compensation" means the aggregate of the member's computation pay for any given plan year. These dollar limits [The \$200,000 limit] shall be adjusted from [on January 1 of each year at the same] time to time [and] in accordance with guidelines [the same manner as] provided by the secretary of the treasury. For [Section 415(d) of the code. In determining the compensation of a member for] purposes of this subsection, an:

(1) "eligible participant" means any person who first became a member of the pension system before January 1, 1996; and

(2) "ineligible participant" means any member who is not an eligible participant [limitation, the family aggregation rules of Section 414(q)(6) of the code apply, except that the term "family member" includes only the spouse of the member and any lineal descendants of the member who have not attained age 19 at the end of the plan year. If as a result of this family aggregation requirement, the \$200,000 limit is exceeded, the limitation shall be prorated among the affected individuals in proportion to each individual's compensation as determined before application of the limit].

(g) For purposes of Subsection (h) of this section, "normal retirement age" means the earlier of:

(1) the attainment of 50 years of age on or before September 1, 2017, and completion of at least five years of pension service;

(2) the attainment of 58 years of age after September 1, 2017, and completion of at least five years of pension service; or

(3) completion of 20 years of pension service.

(h) The retirement benefit earned by a member is nonforfeitable:

(1) on attainment of normal retirement age, if not already nonforfeitable; or

(2) to the extent the benefit is funded, if not already nonforfeitable, on the termination or partial termination of the combined pension plan or the complete discontinuance of city contributions to the fund.

(i) In accordance with Section 401(a)(8) of the code, forfeitures arising under the combined pension plan may not be used to increase the benefits any member would otherwise receive under the terms of the plan. Forfeitures may be used first to reduce administrative expenses, then to reduce required city contributions.

(j) Subject to procedures adopted by the board, the pension system shall accept an eligible rollover distribution from another eligible retirement plan as defined by Section 402(f)(2)(B) of the code as payment of all or a portion of any payment a member is permitted to make to the pension system for past pension service credit. The pension system shall separately account for any after-tax contributions transferred from any plan under this subsection.

SECTION 1.49. Section 8.02, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 8.02. EXCESS BENEFIT PLAN FOR POLICE OFFICERS AND FIRE FIGHTERS. ~~The board may by rule establish and administer [On the enactment of federal legislation enabling public retirement systems to establish excess benefit plans for the benefit of employees for whom additional benefits from retirement plans qualified under Section 401 of the code would exceed the limitations of Section 415 of the code, there is created outside the pension system] a separate[;] qualified governmental [nonqualified] excess benefit arrangement and associated trust for the arrangement in accordance with Section 415(m) of the code. [plan containing the following terms and provisions:~~

~~[(a)(1) All definitions prescribed by Section 2.01 of this article are applicable to the plan created pursuant to this section except:~~

~~[(A) if a different definition is set forth in this subsection; or~~

~~[(B) the context in which a term is used in this section indicates a different meaning is clearly intended than that prescribed by Section 2.01 of this article.~~

~~[(2) "Excess benefit plan" means this separate, nonqualified, unfunded excess benefit plan as created by this section for the benefit of eligible members, as amended or restated from time to time.~~

~~[(3) "Qualified plan" means any plan maintained within the pension system or maintained by the city outside the pension system for the exclusive benefit of some or all of the employees of the city if the plan has been found by the Internal Revenue Service to be qualified or has been treated by the city as a qualified plan under Section 401 of the code.~~

~~[(4) "Maximum benefit" means the retirement benefit a member or, the spouse, any child, or any dependent parent of a member if those persons are entitled, is entitled to receive from all qualified plans in any month after giving effect to Section 8.01 of this article and any similar provisions of any other qualified plans designed to conform to Section 415 of the code.~~

~~[(5) "Excess benefit participant" means any member whose retirement benefits as determined on the basis of all qualified plans without regard to the limitations of Section 8.01 of this article and comparable provisions of other qualified plans would exceed the maximum benefit permitted under Section 415 of the code.~~

~~[(6) "Unrestricted benefit" means the monthly retirement benefit a member, or the spouse or any child of a member, would have received under the terms of all qualified plans except for the restrictions of Section 8.01 of this article and any similar provisions of any other qualified plans designed to conform to Section 415 of the code.~~

~~[(b)(1) An excess benefit participant who is receiving benefits from an applicable qualified plan is entitled to a monthly benefit under this excess benefit plan in an amount equal to the lesser of:~~

~~[(A) the member's unrestricted benefit less the maximum benefit; or~~

~~[(B) the amount by which the member's monthly benefit from the qualified plan or plans approved by the members has been reduced due to the limitations of Section 415 of the code.~~

~~[(2) In the case of the death of an excess benefit participant whose spouse or child is entitled to preretirement or postretirement death benefits under a qualified plan, the excess benefit participant's surviving spouse or child is entitled to a monthly benefit under the excess benefit plan equal to the benefit determined in accordance with the qualified plans without regard to the limitations under Section 8.01 of this article or Section 415 of the code, less the maximum benefit.~~

~~[(3) Unless the excess benefit participant makes a timely election to the contrary, a retirement benefit payable under this excess benefit plan shall be paid in the form and at the time it would have been paid under the applicable qualified plan except for the limitations under Section 415 of the code. However, retirement benefits payable under this excess benefit plan shall be paid at the time and in the form, including a single-sum distribution, as the excess benefit participant elects from among the benefit payment forms made available under the election form as approved by the board. An excess benefit participant makes an election under this subdivision by sending written notice to the administrator on the election form approved by the board. Each optional benefit form permitted under this excess benefit plan shall be the actuarial equivalent of each other permitted benefit form. On or after an excess benefit participant's leaving active service with an entitlement to a retirement benefit under any qualified plan approved by the members, a benefit under this subdivision may be elected to be paid.~~

~~[(c)(1) This plan shall be administered by the board, and the administrator shall also carry out the business of the board with respect to this excess benefit plan. Except as provided to the contrary by this subsection, the rights, duties, and responsibilities of the board and administrator shall be the same for this excess benefit plan as for the qualified pension plans within the pension system.~~

~~[(2) The qualified actuary employed pursuant to Section 4.08 of this article is responsible for determining the amount of benefits that may not be provided under the qualified plans solely by reason of the limitations of Section 415 of the code and thus the amount of city contributions that will be made to this excess benefit plan rather than to a qualified plan.~~

~~[(3) The legal advisors described by Section 3.03 of this article shall also provide advice to the board for this excess benefit plan.~~

~~[(d) Contributions may not be accumulated under this excess benefit plan to pay future retirement benefits. Instead, each payment of city contributions that would otherwise be made to the fund pursuant to Section 4.02 of this article or comparable provisions of other qualified plans approved by the members shall be reduced by the amount determined by the administrator as necessary to meet the requirements for retirement benefits under this excess benefit plan until the next payment of city contributions is expected to be made to the fund by the city. The city shall then pay to this excess benefit plan, out of the withheld city contributions no earlier than the 14th day before the date of each distribution of monthly retirement benefits is required to be made from this excess benefit plan, the amount necessary to satisfy the obligation to pay this excess benefit plan monthly retirement benefits. The administrator shall satisfy the obligation of this excess benefit plan to pay retirement benefits out of the city contributions so transferred for that month. The city contributions otherwise required to the pension~~

~~system pursuant to Section 4.02 of this article and any other qualified plan approved by the members shall be divided into those contributions required to pay retirement benefits pursuant to this section and those contributions paid into and accumulated to pay the maximum benefits required under the qualified plans. City contributions made to provide retirement benefits pursuant to this section may not be commingled with the monies of the fund or any other qualified plan.~~

~~[(e) Amendments to this excess benefit plan shall be made in the same manner provided by Section 7.01 of this article.]~~

SECTION 1.50. Section 8.03, Article 6243a-1, Revised Statutes, is amended to read as follows:

Sec. 8.03. EXEMPTION OF BENEFITS FROM JUDICIAL PROCESS OR ALIENATION. (a) A portion of the fund or benefit or amount awarded to any primary party, qualified survivor, ~~[or]~~ beneficiary of a member's DROP account, *excess benefit participant, or survivor of an excess benefit participant* under this article may not be held, seized, taken, subjected to, or detained or levied on by virtue of any execution, attachment, garnishment, injunction, or other writ, order, or decree, or any process or proceedings issued from or by any court for the payment or satisfaction, in whole or in part, of any debt, damage, claim, demands, or judgment against any person entitled to benefits from any plan within the pension system *or from the excess benefit plan*. The fund *and the excess benefit plan* or any claim against the fund *or the excess benefit plan* may not be directly or indirectly assigned or transferred, and any attempt to transfer or assign the fund *or the excess benefit plan* or a claim against the fund *or the excess benefit plan* is void.

(b) A benefit under any plan created or existing pursuant to this article or Article 6243a is subject to division pursuant to the terms of a qualified domestic relations order. The *executive director* ~~[administrator]~~ shall determine the qualifications of a domestic relations order according to a uniform, consistent procedure approved by the board. The total benefit payable to a primary party or to an alternate payee under a qualified domestic relations order may not actuarially exceed the benefits to which a primary party would be entitled in the absence of the qualified domestic relations order. In calculating the alternate payee's benefits under a qualified domestic relations order, the interest rate is the rate used by the pension system's actuary in the actuarial evaluation for that year, except that the minimum interest rate for this purpose is the minimum required by Section 414 of the code.

(c) This section does not preclude:

(1) the payment of death benefits to a ~~[support]~~ trust for certain ~~[surviving]~~ children of a primary party pursuant to Section 6.06(n) of this article;

(2) *the withholding of federal taxes from pension benefits;*

(3) *the recovery by the board of overpayments of benefits previously made to any person;*

(4) *the direct deposit of benefit payments to an account in a bank, savings and loan association, credit union, or other financial institution, provided the arrangement is not an alienation;*

(5) *under any policy adopted by the board and uniformly applied to voluntary arrangements entered into by a primary party or qualified survivor, any voluntary and revocable arrangement entered into by a pensioner or a qualified survivor that permits the withholding and direct payment of health care or life insurance premiums or similar payments from the monthly benefit payments; or*

(6) *an assignment of the distribution from an annuitized DROP account to a third party under Section 6.14(e-3)(1) of this article.*

(d) *For purposes of Subsection (c) of this section, an attachment, garnishment, levy, execution, or other legal process is not considered a voluntary arrangement.*

SECTION 1.51. Chapter 810, Government Code, is amended by adding Section 810.002 to read as follows:

Sec. 810.002. *ALTERNATIVE BENEFIT PLAN FOR CERTAIN MUNICIPALITIES.*

(a) *In this section, “alternative benefit plan” means a continuing, organized benefit plan, including a plan qualified under Section 401(a) of the Internal Revenue Code of 1986, of service retirement, disability retirement, or death benefits for officers or employees of a municipality.*

(b) *This section applies only to a municipality subject to Article 6243a–1, Revised Statutes.*

(c) *Notwithstanding any other law and subject to Subsection (f), the governing body of a municipality subject to this section may by ordinance:*

(1) *establish an alternative benefit plan and determine the benefits, funding source and amount, and administration of the alternative benefit plan; and*

(2) *require an employee first hired by the municipality on or after the date the alternative benefit plan is implemented to participate in the alternative benefit plan instead of participating in the pension system provided under Article 6243a–1, Revised Statutes.*

(d) *Each active participant of an alternative benefit plan established under this section shall contribute to the plan an amount, if any, determined by the municipality. The municipality shall contribute for each active participant in an alternative benefit plan established under Subsection (c) an amount determined by the municipality.*

(e) *A municipality that establishes an alternative benefit plan under this section shall file all reports with the State Pension Review Board required by Chapter 802.*

(f) *The governing body of a municipality may only establish an alternative benefit plan under this section if:*

(1) *the qualified actuary of the pension system established under Article 6243a–1, Revised Statutes, determines that after establishment and implementation of the alternative benefit plan, the pension system would continue to comply with funding and amortization period requirements applicable to the pension system under Subchapter C, Chapter 802; and*

(2) *the State Pension Review Board conducts a review of and validates the determination made under Subdivision (1).*

SECTION 1.52. The following provisions of Article 6243a–1, Revised Statutes, are repealed:

- (1) Section 3.01(c);
- (2) Section 4.01(b);
- (3) Section 4.02(f);
- (4) Sections 6.06(i) and (s);
- (5) Section 6.10B(h);
- (6) Sections 6.14(i) and (k); and
- (7) Part 7.

SECTION 1.53. (a) In this section, “board,” “city,” “nominations committee,” “pension system,” and “trustee” have the meanings assigned by Section 2.01, Article 6243a–1, Revised Statutes, as amended by this article.

(b) The terms of the current trustees expire on the effective date of this article. Subject to Subsection (e) of this section, on that date or as soon as possible after that date:

(1) the mayor shall appoint new trustees to the board in accordance with the requirements of Section 3.01(b)(1), Article 6243a–1, Revised Statutes, as added by this article; and

(2) notwithstanding the requirements of Sections 3.01(b)(2), (3), and (4) and (f), Article 6243a–1, Revised Statutes, as added or amended by this article, that the board in consultation with the nominations committee adopt rules governing the election of trustees appointed under Sections 3.01(b)(2), (3), and (4), Article 6243a–1, Revised Statutes, as added by this article, the nominations committee shall adopt procedures

for electing the initial trustees elected under Sections 3.01(b)(2), (3), and (4), Article 6243a-1, Revised Statutes, as added by this article.

(c) Notwithstanding Section 3.01(o), Article 6243a-1, Revised Statutes, as amended by this article, and except as provided by Subsections (d) and (g) of this section, the board may not take any action authorized by Article 6243a-1, Revised Statutes, until at least 10 initial trustees have been appointed or elected, except that the board may take such an action, other than an action described by Section 3.01(o)(2), Article 6243a-1, Revised Statutes, as added by this article, before at least 10 initial trustees have been appointed or elected if the action is in the ordinary course of business of the board and is required for the continued administration of the pension system.

(d) Once all trustees have been appointed or elected to the board under this section, the board shall by majority vote adopt rules establishing a process for electing trustees under Sections 3.01(b)(2), (3), and (4), Article 6243a-1, Revised Statutes, as added by this article.

(e) As soon as possible after the effective date of this article, the mayor and the nominations committee shall:

(1) make a determination under Section 3.01(e), Article 6243a-1, Revised Statutes, as amended by this article, regarding the term limits of the board established under that section; and

(2) notwithstanding Section 3.01(e), Article 6243a-1, Revised Statutes, as amended by this article, determine the terms of initial trustees to ensure the appropriate staggering of trustee terms.

(f) Notwithstanding Section 3.01(g), Article 6243a-1, Revised Statutes, the board shall elect from among its trustees an initial chairman, vice chairman, and deputy vice chairman as soon as possible after all trustees have been appointed or elected in accordance with this article and, if the board elects to do so, an initial second deputy vice chairman.

(g) Not later than the 90th day after the date all trustees under Section 3.01, Article 6243a-1, Revised Statutes, as amended by this article, have been appointed or elected, the board shall vote on and, if the board determines it is appropriate, amend the existing rules relating to the governance and conduct of the board.

SECTION 1.54. (a) Not later than January 1, 2018, the board of trustees of the pension system established under Article 6243a-1, Revised Statutes, shall:

(1) establish the ethics policy required by Section 3.01(r), Article 6243a-1, Revised Statutes, as added by this article; and

(2) appoint an executive director under Section 3.04, Article 6243a-1, Revised Statutes, as amended by this article.

(b) As soon as possible after the executive director is appointed under Subsection (a) of this section, the executive director may hire, subject to confirmation by the board of trustees of the pension system established under Article 6243a-1, Revised Statutes, a chief investment officer as authorized under Section 3.025, Article 6243a-1, Revised Statutes, as added by this article, and a chief legal officer as authorized under Section 3.03(c), Article 6243a-1, Revised Statutes, as amended by this article.

SECTION 1.55. (a) In this section, “executive director,” “nominations committee,” and “pensioner” have the meanings assigned by Section 2.01, Article 6243a-1, Revised Statutes, as amended by this article.

(b) As soon as possible after the effective date of this article but not later than the 30th day after the effective date of this article, the president, chair, or other executive head of an organization described by Section 3.011(a)(2), Article 6243a-1, Revised Statutes, as added by this article, that is eligible to and intends to participate on the nominations committee shall notify the executive director of:

(1) the organization’s intent to participate on the nominations committee; and

(2) whether the president, chair, or other executive head, as appropriate, or that person’s designee will serve on the committee.

SECTION 1.56. Section 4.025, Article 6243a-1, Revised Statutes, as added by this article, applies only to a contribution made on or after the date of the most recently completed actuarial valuation following the effective date of this article.

SECTION 1.57. The board of trustees of the pension system established under Article 6243a-1, Revised Statutes, shall review all investments held on the effective date of this article under Section 4.071, Article 6243a-1, Revised Statutes, as added by this article.

SECTION 1.58. Changes in law to Part 5, Article 6243a-1, Revised Statutes, as amended by this article, apply to membership in a pension system established under Article 6243a-1, Revised Statutes, on or after the effective date of this article.

SECTION 1.59. A rollover distribution to a plan administered by the pension system established under Article 6243a-1, Revised Statutes, that was made on or after January 1, 2002, is validated as of the date the distribution occurred. A distribution described by this section may not be held invalid because the distribution was not performed in accordance with Section 8.01(j), Article 6243a-1, Revised Statutes, as added by this article, or other applicable law.

SECTION 1.60. Section 6.14(e), Article 6243a-1, Revised Statutes, as amended by this article, applies only to a distribution out of a deferred retirement option plan account that is made on or after the implementation of that section. A distribution out of a deferred retirement option plan account that is made before the implementation of that section is governed by the law in effect when the distribution is made.

ARTICLE 2. IMMEDIATE PROHIBITION ON CERTAIN DISTRIBUTIONS

SECTION 2.01. Part 6, Article 6243a-1, Revised Statutes, is amended by adding Section 6.142 to read as follows:

Sec. 6.142. PROHIBITION ON CERTAIN DISTRIBUTIONS. (a) Notwithstanding Section 6.14 of this article, including Section 6.14(d)(1) of this article, the board may not allow any distribution out of a DROP participant's DROP account to a DROP participant or a participant's designated beneficiary, except:

(1) in the event of an unforeseeable emergency, as described in Section 6 of the DROP addendum policy adopted by the board that took effect on January 12, 2017;

(2) for purposes of making a minimum annual distribution, as described in Section 7 of the DROP addendum policy adopted by the board that took effect on January 12, 2017;

(3) as permitted by the board under Section 8e of the DROP addendum policy adopted by the board that took effect on January 12, 2017, in order to avoid the possibility of an early distribution tax penalty under Section 72(t) of the code; or

(4) in compliance with a court order.

(b) This section expires September 1, 2017.

ARTICLE 3. SEVERABILITY AND EFFECTIVE DATE

SECTION 3.01. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 3.02. (a) Except as provided by Subsections (b) and (d) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

(b) Article 1 of this Act takes effect on September 1, 2017, unless the board of trustees of the pension system established under Article 6243a-1, Revised Statutes, violates Section 6.142, Article 6243a-1, Revised Statutes, as added by this Act, on or before August 31, 2017, as determined by the State Pension Review Board. At the request of the State Pension Review Board and within the time prescribed by the State Pension Review Board, the board of trustees shall provide the data or other information requested by the

State Pension Review Board for purposes of making a determination under this subsection.

(c) If the State Pension Review Board determines that the pension system violated Section 6.142, Article 6243a-1, Revised Statutes, as added by this Act, the State Pension Review Board shall:

(1) not later than August 31, 2017:

(A) notify the board of trustees of the pension system and the mayor and city council of a city subject to Article 6243a-1, Revised Statutes, of its determination under this section; and

(B) publish notice of its determination under this section on the State Pension Review Board's Internet website; and

(2) as soon as practicable after August 31, 2017, publish notice of its determination under this section in the Texas Register.

(c-1) The State Pension Review Board shall make the determination described by Subsection (c) of this section based on the data or other information that:

(1) is in the State Pension Review Board's possession on or before August 31, 2017; and

(2) was provided with enough time for the State Pension Review Board to reasonably use the information to make a determination under this section.

(d) If, not later than August 31, 2017, the State Pension Review Board makes the determination described by Subsection (c) of this section, Article 1 of this Act has no effect.

Passed by the House on May 4, 2017: Yeas 141, Nays 0, 4 present, not voting; the House concurred in Senate amendments to H.B. No. 3158 on May 25, 2017: Yeas 142, Nays 0, 3 present, not voting; passed by the Senate, with amendments, on May 23, 2017: Yeas 30, Nays 0, 1 present, not voting.

Approved May 31, 2017.

Effective May 31, 2017, except as provided by §§ 3.02(b), 3.02(d).

**PROVISION OF CHILD PROTECTIVE SERVICES AND OTHER
HEALTH AND HUMAN SERVICES BY CERTAIN STATE
AGENCIES OR UNDER CONTRACT WITH A STATE AGENCY,
INCLUDING FOSTER CARE, CHILD PROTECTIVE, RELATIVE
AND KINSHIP CAREGIVER SUPPORT, PREVENTION AND
EARLY INTERVENTION HEALTH CARE, AND ADOPTION
SERVICES**

CHAPTER 319

S.B. No. 11

AN ACT

relating to the provision of child protective services and other health and human services by certain state agencies or under contract with a state agency, including foster care, child protective, relative and kinship caregiver support, prevention and early intervention health care, and adoption services.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 71.004, Family Code, is amended to read as follows:

Sec. 71.004. FAMILY VIOLENCE. "Family violence" means:

(1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault,